TITLE 17—COPYRIGHTS

Title 17, enacted by act July 30, 1947, ch. 391, 61 Stat. 652, was effective until January 1, 1978, and as revised in its entirety by Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2541, became effective January 1, 1978, except sections 118, 304(b), and chapter 8, which became effective October 19, 1976

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Prior Provisions

Title 17, as enacted by act July 30, 1947, ch. 391, 61 Stat. 652, consisting of sections 1 to 32, 101 to 116, and 201 to 216, as amended through 1976, and section 203, as amended by Pub. L. 95-94, title IV, § 406(a), Aug. 5, 1977, 91 Stat. 682, terminated Jan. 1, 1978.

Effective Date

Section 102 of Pub. L. 94-553, Oct. 19, 1976, 90 Stat. 2598, provided that: "This Act [enacting this title and section 170 of Title 2, The Congress, amending section 131 of title 2, section 290e of Title 15, Commerce and Trade, section 2318 of Title 18, Crimes and Criminal Procedure, section 543 of Title 26, Internal Revenue Code of 1954, section 1498 of Title 28, Judiciary and Judicial Procedure, sections 3203 and 3206 of Title 39, Postal Service, and sections 505 and 2113 of Title 44, Public Printing and Documents, and enacting provisions set out as notes below and under sections 104, 115, 304, 401, 407, 410, and 501 of this title] becomes effective on January 1, 1978, except as otherwise expressly provided by this Act, including provisions of the first section of this Act. The provisions of sections 118, 304(b), and chapter 8 of title 17, as amended by the first section of this Act, take effect upon enactment of this Act [Oct. 19, 1976]."

Separability of Provisions

Section 115 of Pub. L. 94-553, Oct. 19, 1976, 90 Stat. 2602, provided that: "If any provision of title 17 [this title], as amended by the first section of this Act, is declared unconstitutional, the validity of the remainder of this title is not affected."

Authorization of Appropriations

Section 114 of Pub. L. 94-553, Oct. 19, 1976, 90 Stat. 2602, provided that: "There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act [this title]."

LOST AND EXPIRED COPYRIGHTS; RECORDING RIGHTS

Section 103 of Pub. L. 94-553, Oct. 19, 1976, 90 Stat. 2599, provided that: "This Act [enacting this title] does not provide copyright protection for any work that goes into the public domain before January 1, 1978. The exclusive rights, as provided by section 106 of title 17 as amended by the first section of this Act, to reproduce a work in phonorecords and to distribute phonorecords of the work, do not extend to any nondramatic musical work copyrighted before July 1, 1909."

CROSS REFERENCES

Exclusive jurisdiction of Federal courts over actions and proceedings under copyright laws, see section 1338 of Title 28, Judiciary and Judicial Procedure.

Power of the Congress to regulate copyrights, see Const., Art. I, § 8, cl. 8.

CHAPTER 1—SUBJECT MATTER AND SCOPE OF COPYRIGHT

Sec.

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116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players.
117. Scope of exclusive rights: Use in conjunction with computers and similar information systems.
118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting.

§ 101. Definitions

As used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines, or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are that person's immediate offspring, whether legitimate or not, and any children legally adopted by that person.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner", with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship, is a "derivative work".

A "device", "machine", or "process" is one now known or later developed.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The terms "including" and "such as" are illustrative and not limitative.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

"Phonorecords" are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

A "pseudonymous work" is a work on the copies or phonorecords of which the author is identified under a fictitious name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means—

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an Act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

The "United States", when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article".

The author's "widow" or "widower" is the author's surviving spouse under the law of the author's domicile at the time of his or her death, whether or not the spouse has later remarried.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of that person's official duties.

A "work made for hire" is—

(1) a work prepared by an employee within the scope of his or her employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the foregoing sentence, a "supplementary work" is a work prepared for publi-

cation as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2541.)

§ 102. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

(1) literary works;

(2) musical works, including any accompanying words;

(3) dramatic works, including any accompanying music;

(4) pantomimes and choreographic works;

(5) pictorial, graphic, and sculptural works;

(6) motion pictures and other audiovisual works; and

(7) sound recordings.

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2544.)

Cross References

Actions and remedies for infringement of copyright, see section 501 et seq. of this title.

Common law rights, see section 301 of this title.

Copyright as distinct from property in object copyrighted, see section 202 of this title.

Copyright not capital asset, see section 1221 of Title 26, Internal Revenue Code.

Duration of copyright, see section 301 et seq. of this title.

Fees, see section 708 of this title.

Government works as not copyrightable, see section 105 of this title.

Power of Congress to grant authors exclusive right to their writings, see Const. Art. 1, § 8, cl. 8.

Preemption of other laws that come within subject matter of this section, see section 301 of this title.

Proclamation by President granting foreign authors copyright protection, see section 104 of this title.

Regulations, see section 702 of this title.

Subject matter of copyright—

Compilations and derivative works, see section 103 of this title.

National origin, see section 104 of this title.

United States Government works, see section 105 of this title.

Transfer and bequests of copyright, see section 201 of this title.

Section Referred to in Other Sections

This section is referred to in sections 103, 104, 301 of this title.

§ 103. Subject matter of copyright: Compilations and derivative works

(a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing preexisting material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

(b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2545.)

Cross References

Preemption of other laws that come within subject matter of this section, see section 301 of this title.

Section Referred to in Other Sections

This section is referred to in sections 104, 301 of this title.

§ 104. Subject matter of copyright: National origin

(a) Unpublished Works

The works specified by sections 102 and 103, while unpublished, are subject to protection under this title without regard to the nationality or domicile of the author.

(b) Published Works

The works specified by sections 102 and 103, when published, are subject to protection under this title if—

(1) on the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a foreign nation that is a party to a copyright treaty to which the United States is also a party, or is a stateless person, wherever that person may be domiciled; or

(2) the work is first published in the United States or in a foreign nation that, on the date of first publication, is a party to the Universal Copyright Convention; or

(3) the work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; or

(4) the work comes within the scope of a Presidential proclamation. Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States or to works that are first published in the United States, copyright protection on substantially the same basis as that on which the foreign nation extends protection to works of its own nationals and domiciliaries and works first published in that nation, the President

may by proclamation extend protection under this title to works of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation, or which was first published in that nation. The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under a proclamation.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2545.)

REFERENCES IN TEXT

The Universal Copyright Convention, referred to in subsec. (b)(2), probably means the Universal Copyright Convention as revised at Paris on July 24, 1971, effective July 10, 1974, set out below.

UNIVERSAL COPYRIGHT CONVENTION

PARIS, 1971

The Universal Copyright Convention was revised at Paris on July 24, 1971. It entered into force for the United States on July 10, 1974. The text of the Convention, as revised at Paris, is as follows:

The Contracting States,

Moved by the desire to ensure in all countries copyright protection of literary, scientific and artistic works,

Convinced that a system of copyright protection appropriate to all nations of the world and expressed in a universal convention, additional to, and without impairing international systems already in force, will ensure respect for the rights of the individual and encourage the development of literature, the sciences and the arts,

Persuaded that such a universal copyright system will facilitate a wider dissemination of works of the human mind and increase international understanding,

Have resolved to revise the Universal Copyright Convention as signed at Geneva on 6 September 1952 (hereinafter called "the 1952 Convention"), and consequently,

Have agreed as follows:

ARTICLE I

Each Contracting State undertakes to provide for the adequate and effective protection of the rights of authors and other copyright proprietors in literary, scientific and artistic works, including writings, musical, dramatic and cinematographic works, and paintings, engravings and sculpture.

ARTICLE II

1. Published works of nationals of any Contracting State and works first published in that State shall enjoy in each other Contracting State the same protection as that other State accords to works of its nationals first published in its own territory, as well as the protection specially granted by this Convention.

2. Unpublished works of nationals of each Contracting State shall enjoy in each other Contracting State the same protection as that other State accords to unpublished works of its own nationals, as well as the protection specially granted by this Convention.

3. For the purpose of this Convention any Contracting State may, by domestic legislation, assimilate to its own nationals any person domiciled in that State.

ARTICLE III

1. Any Contracting State which, under its domestic law, requires as a condition of copyright, compliance with formalities such as deposit, registration, notice, notarial certificates, payment of fees or manufacture or publication in that Contracting State, shall regard these requirements as satisfied with respect to all works protected in accordance with this Convention and first published outside its territory and the author of which is not one of its nationals, if from the time of the first publication all the copies of the work published with the authority of the author or other copyright proprietor bear the symbol accompanied by the name of the copyright proprietor and the year of first publication placed in such manner and location as to give reasonable notice of claim of copyright.

2. The provisions of paragraph 1 shall not preclude any Contracting State from requiring formalities or other conditions for the acquisition and enjoyment of copyright in respect of works first published in its territory or works of its nationals wherever published.

3. The provisions of paragraph 1 shall not preclude any Contracting State from providing that a person seeking judicial relief must, in bringing the action, comply with procedural requirements, such as that the complainant must appear through domestic counsel or that the complainant must deposit with the court or an administrative office, or both, a copy of the work involved in the litigation; provided that failure to comply with such requirements shall not affect the validity of the copyright, nor shall any such requirement be imposed upon a national of another Contracting State if such requirement is not imposed on nationals of the State in which protection is claimed.

4. In each Contracting State there shall be legal means of protecting without formalities the unpublished works of nationals of other Contracting States.

5. If a Contracting State grants protection for more than one term of copyright and the first term is for a period longer than one of the minimum periods prescribed in Article IV, such State shall not be required to comply with the provisions of paragraph 1 of this Article in respect of the second or any subsequent term of copyright.

ARTICLE IV

1. The duration of protection of a work shall be governed, in accordance with the provisions of Article II and this Article, by the law of the Contracting State in which protection is claimed.

2. (a) The term of protection for works protected under this Convention shall not be less than the life of the author and twenty-five years after his death. However, any Contracting State which, on the effective date of this Convention in that State, has limited this term for certain classes of works to a period computed from the first publication of the work, shall be entitled to maintain these exceptions and to extend them to other classes of works. For all these classes the term of protection shall not be less than twenty-five years from the date of first publication.

(b) Any Contracting State which, upon the effective date of this Convention in that State, does not compute the term of protection upon the basis of the life of the author, shall be entitled to compute the term of protection from the date of the first publication of the work or from its registration prior to publication, as the case may be, provided the term of protection shall not be less than twenty-five years from the date of first publication or from its registration prior to publication, as the case may be.

(c) If the legislation of a Contracting State grants two or more successive terms of protection, the duration of the first term shall not be less than one of the minimum periods specified in subparagraphs (a) and (b).

3. The provisions of paragraph 2 shall not apply to photographic works or to works of applied art; provided, however, that the term of protection in those Contracting States which protect photographic works, or works of applied art in so far as they are protected as artistic works, shall not be less than ten years for each of said classes of works.

4. (a) No Contracting State shall be obliged to grant protection to a work for a period longer than that fixed for the class of works to which the work in ques-

tion belongs, in the case of unpublished works by the law of the Contracting State of which the author is a national, and in the case of published works by the law of the Contracting State in which the work has been first published.

(b) For the purposes of the application of subparagraph (a), if the law of any Contracting State grants two or more successive terms of protection, the period of protection of that State shall be considered to be the aggregate of those terms. However, if a specified work is not protected by such State during the second or any subsequent term for any reason, the other Contracting States shall not be obliged to protect it during the second or any subsequent term.

5. For the purposes of the application of paragraph 4, the work of a national of a Contracting State, first published in a non-Contracting State, shall be treated as though first published in the Contracting State of which the author is a national.

6. For the purposes of the application of paragraph 4, in case of simultaneous publication in two or more Contracting States, the work shall be treated as though first published in the State which affords the shortest term; any work published in two or more Contracting States within thirty days of its first publication shall be considered as having been published simultaneously in said Contracting States.

ARTICLE IV*bis*

1. The rights referred to in Article I shall include the basic rights ensuring the author's economic interests, including the exclusive right to authorize reproduction by any means, public performance and broadcasting. The provisions of this Article shall extend to works protected under this Convention either in their original form or in any form recognizably derived from the original.

2. However, any Contracting State may, by its domestic legislation, make exceptions that do not conflict with the spirit and provisions of this Convention, to the rights mentioned in paragraph 1 of this Article. Any State whose legislation so provides, shall nevertheless accord a reasonable degree of effective protection to each of the rights to which exception has been made.

ARTICLE V

1. The rights referred to in Article I shall include the exclusive right of the author to make, publish and authorize the making and publication of translations of works protected under this Convention.

2. However, any Contracting State may, by its domestic legislation, restrict the right of translation of writings, but only subject to the following provisions:

(a) If, after the expiration of a period of seven years from the date of the first publication of a writing, a translation of such writing has not been published in a language in general use in the Contracting State, by the owner of the right of translation or with his authorization, any national of such Contracting State may obtain a non-exclusive licence from the competent authority thereof to translate the work into that language and publish the work so translated.

(b) Such national shall in accordance with the procedure of the State concerned, establish either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A licence may also be granted on the same conditions if all previous editions of a translation in a language in general use in the Contracting State are out of print.

(c) If the owner of the right of translation cannot be found, then the applicant for a licence shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the State of which such owner is a national, or to the organization which may have been designated by the government of that State. The licence shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application.

(d) Due provision shall be made by domestic legislation to ensure to the owner of the right of translation a compensation which is just and conforms to international standards, to ensure payment and transmittal of such compensation, and to ensure a correct translation of the work.

(e) The original title and the name of the author of the work shall be printed on all copies of the published translation. The licence shall be valid only for publication of the translation in the territory of the Contracting State where it has been applied for. Copies so published may be imported and sold in another Contracting State if a language in general use in such other State is the same language as that into which the work has been so translated, and if the domestic law in such other State makes provision for such licences and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a Contracting State shall be governed by its domestic law and its agreements. The licence shall not be transferred by the licensee.

(f) The licence shall not be granted when the author has withdrawn from circulation all copies of the work.

ARTICLE V*bis*

1. Any Contracting State regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations may, by a notification deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization (hereinafter called "the Director-General") at the time of its ratification, acceptance or accession or thereafter, avail itself of any or all of the exceptions provided for in Articles V*ter* and V*quater*.

2. Any such notification shall be effective for ten years from the date of coming into force of this Convention, or for such part of that ten-year period as remains at the date of deposit of the notification, and may be renewed in whole or in part for further periods of ten years each if, not more than fifteen or less than three months before the expiration of the relevant ten-year period, the contracting State deposits a further notification with the Director-General. Initial notifications may also be made during these further periods of ten years in accordance with the provisions of this Article.

3. Notwithstanding the provisions of paragraph 2, a Contracting State that has ceased to be regarded as a developing country as referred to in paragraph 1 shall no longer be entitled to renew its notification made under the provisions of paragraph 1 or 2, and whether or not it formally withdraws the notification such State shall be precluded from availing itself of the exceptions provided for in Articles V*ter* and V*quater* at the end of the current ten-year period, or at the end of three years after it has ceased to be regarded as a developing country, whichever period expires later.

4. Any copies of a work already made under the exceptions provided for in Articles V*ter* and V*quater* may continue to be distributed after the expiration of the period for which notifications under this Article were effective until their stock is exhausted.

5. Any Contracting State that has deposited a notification in accordance with Article XIII with respect to the application of this Convention to a particular country or territory, the situation of which can be regarded as analogous to that of the States referred to in paragraph 1 of this Article, may also deposit notifications and renew them in accordance with the provisions of this Article with respect to any such country or territory. During the effective period of such notifications, the provisions of Articles V*ter* and V*quater* may be applied with respect to such country or territory. The sending of copies from the country or territory to the Contracting State shall be considered as

export within the meaning of Articles V*ter* and V*quater*.

ARTICLE V*ter*

1. (a) Any Contracting State to which Article V*bis* (1) applies may substitute for the period of seven years provided for in Article V(2) a period of three years or any longer period prescribed by its legislation. However, in the case of a translation into a language not in general use in one or more developed countries that are party to this Convention or only the 1952 Convention, the period shall be one year instead of three.

(b) A Contracting State to which Article V*bis* (1) applies may, with the unanimous agreement of the developed countries party to this Convention or only the 1952 Convention and in which the same language is in general use, substitute, in the case of translation into that language, for the period of three years provided for in sub-paragraph (a) another period as determined by such agreement but not shorter than one year. However, this sub-paragraph shall not apply where the language in question is English, French or Spanish. Notification of any such agreement shall be made to the Director-General.

(c) The licence may only be granted if the applicant, in accordance with the procedure of the State concerned, establishes either that he has requested, and been denied, authorization by the owner of the right of translation, or that, after due diligence on his part, he was unable to find the owner of the right. At the same time as he makes his request he shall inform either the International Copyright Information Centre established by the United Nations Educational, Scientific and Cultural Organization or any national or regional information centre which may have been designated in a notification to that effect deposited with the Director-General by the government of the State in which the publisher is believed to have his principal place of business.

(d) If the owner of the right of translation cannot be found, the applicant for a licence shall send, by registered airmail, copies of his application to the publisher whose name appears on the work and to any national or regional information centre as mentioned in sub-paragraph (c). If no such centre is notified he shall also send a copy to the international copyright information centre established by the United Nations Educational, Scientific and Cultural Organization.

2. (a) Licences obtainable after three years shall not be granted under this Article until a further period of six months has elapsed and licences obtainable after one year until a further period of nine months has elapsed. The further period shall begin either from the date of the request for permission to translate mentioned in paragraph 1(c) or, if the identity or address of the owner of the right of translation is not known, from the date of dispatch of the copies of the application for a licence mentioned in paragraph 1(d).

(b) Licences shall not be granted if a translation has been published by the owner of the right of translation or with his authorization during the said period of six or nine months.

3. Any licence under this Article shall be granted only for the purpose of teaching, scholarship or research.

4. (a) Any licence granted under this Article shall not extend to the export of copies and shall be valid only for publication in the territory of the Contracting State where it has been applied for.

(b) Any copy published in accordance with a licence granted under this Article shall bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State granting the licence. If the writing bears the notice specified in Article III (1) the copies shall bear the same notice.

(c) The prohibition of export provided for in sub-paragraph (a) shall not apply where a governmental or other public entity of a State which has granted a licence under this Article to translate a work into a language other than English, French or Spanish sends copies of a translation prepared under such licence to another country if:

(i) the recipients are individuals who are nationals of the Contracting State granting the licence, or organizations grouping such individuals;

(ii) the copies are to be used only for the purpose of teaching, scholarship or research;

(iii) the sending of the copies and their subsequent distribution to recipients is without the object of commercial purpose; and

(iv) the country to which the copies have been sent has agreed with the Contracting State to allow the receipt, distribution or both and the Director-General has been notified of such agreement by any one of the governments which have concluded it.

5. Due provision shall be made at the national level to ensure:

(a) that the licence provides for just compensation that is consistent with standards of royalties normally operating in the case of licences freely negotiated between persons in the two countries concerned; and

(b) payment and transmittal of the compensation; however, should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

6. Any licence granted by a Contracting State under this Article shall terminate if a translation of the work in the same language with substantially the same content as the edition in respect of which the licence was granted is published in the said State by the owner of the right of translation or with his authorization, at a price reasonably related to that normally charged in the same State for comparable works. Any copies already made before the licence is terminated may continue to be distributed until their stock is exhausted.

7. For works which are composed mainly of illustrations a licence to translate the text and to reproduce the illustrations may be granted only if the conditions of Article V*quater* are also fulfilled.

8. (a) A licence to translate a work protected under this Convention, published in printed or analogous forms of reproduction, may also be granted to a broadcasting organization having its headquarters in a Contracting State to which Article V*bis* (1) applies, upon an application made in that State by the said organization under the following conditions:

(i) the translation is made from a copy made and acquired in accordance with the laws of the Contracting State;

(ii) the translation is for use only in broadcasts intended exclusively for teaching or for the dissemination of the results of specialized technical or scientific research to experts in a particular profession;

(iii) the translation is used exclusively for the purposes set out in condition (ii), through broadcasts lawfully made which are intended for recipients on the territory of the Contracting State, including broadcasts made through the medium of sound or visual recordings lawfully and exclusively made for the purpose of such broadcasts;

(iv) sound or visual recordings of the translation may be exchanged only between broadcasting organizations having their headquarters in the Contracting State granting the licence; and

(v) all uses made of the translation are without any commercial purpose.

(b) Provided all of the criteria and conditions set out in sub-paragraph (a) are met, a licence may also be granted to a broadcasting organization to translate any text incorporated in an audio-visual fixation which was itself prepared and published for the sole purpose of being used in connexion with systematic instructional activities.

(c) Subject to sub-paragraphs (a) and (b), the other provisions of this Article shall apply to the grant and exercise of the licence.

9. Subject to the provisions of this Article, any licence granted under this Article shall be governed by the provisions of Article V, and shall continue to be governed by the provisions of Article V and of this Article, even after the seven-year period provided for in Article V(2) has expired. However, after the said period has expired, the licensee shall be free to request that the said licence be replaced by a new licence governed exclusively by the provisions of Article V.

ARTICLE V*quater*

1. Any Contracting State to which Article V*bis* (1) applies may adopt the following provisions:

(a) If, after the expiration of (i) the relevant period specified in sub-paragraph (c) commencing from the date of first publication of a particular edition of a literary, scientific or artistic work referred to in paragraph 3, or (ii) any longer period determined by national legislation of the State, copies of such edition have not been distributed in that State to the general public or in connexion with systematic instructional activities at a price reasonably related to that normally charged in the State for comparable works, by the owner of the right of reproduction or with his authorization, any national of such State may obtain a non-exclusive licence from the competent authority to publish such edition at that or a lower price for use in connexion with systematic instructional activities. The licence may only be granted if such national, in accordance with the procedure of the State concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to publish such work, or that, after due diligence on his part, he was unable to find the owner of the right. At the same time as he makes his request he shall inform either the international copyright information centre established by the United Nations Educational, Scientific and Cultural Organization or any national or regional information centre referred to in sub-paragraph (d).

(b) A licence may also be granted on the same conditions if, for a period of six months, no authorized copies of the edition in question have been on sale in the State concerned to the general public or in connexion with systematic instructional activities at a price reasonably related to that normally charged in the State for comparable works.

(c) The period referred to in sub-paragraph (a) shall be five years except that:

(i) for works of the natural and physical sciences, including mathematics, and of technology, the period shall be three years;

(ii) for works of fiction, poetry, drama and music, and for art books, the period shall be seven years.

(d) If the owner of the right of reproduction cannot be found, the applicant for a licence shall send, by registered air mail, copies of his application to the publisher whose name appears on the work and to any national or regional information centre identified as such in a notification deposited with the Director-General by the State in which the publisher is believed to have his principal place of business. In the absence of any such notification, he shall also send a copy to the international copyright information centre established by the United Nations Educational, Scientific and Cultural Organization. The licence shall not be granted before the expiration of a period of three months from the date of dispatch of the copies of the application.

(e) Licences obtainable after three years shall not be granted under this Article:

(i) until a period of six months has elapsed from the date of the request for permission referred to in sub-paragraph (a) or, if the identity or address of the owner of the right of reproduction is unknown, from the date of the dispatch of the copies of the application for a licence referred to in sub-paragraph (d);

(ii) if any such distribution of copies of the edition as is mentioned in sub-paragraph (a) has taken place during that period.

(f) The name of the author and the title of the particular edition of the work shall be printed on all copies of the published reproduction. The licence shall not extend to the export of copies and shall be valid only for publication in the territory of the Contracting State where it has been applied for. The licence shall not be transferable by the licensee.

(g) Due provision shall be made by domestic legislation to ensure an accurate reproduction of the particular edition in question.

(h) A licence to reproduce and publish a translation of a work shall not be granted under this Article in the following cases:

(i) where the translation was not published by the owner of the right of translation or with his authorization;

(ii) where the translation is not in a language in general use in the State with power to grant the licence.

2. The exceptions provided for in paragraph 1 are subject to the following additional provisions:

(a) Any copy published in accordance with a licence granted under this Article shall bear a notice in the appropriate language stating that the copy is available for distribution only in the Contracting State to which the said licence applies. If the edition bears the notice specified in Article III (1), the copies shall bear the same notice.

(b) Due provision shall be made at the national level to ensure:

(i) that the licence provides for just compensation that is consistent with standards of royalties normally operating in the case of licences freely negotiated between persons in the two countries concerned; and

(ii) payment and transmittal of the compensation; however, should national currency regulations intervene, the competent authority shall make all efforts, by the use of international machinery, to ensure transmittal in internationally convertible currency or its equivalent.

(c) Whenever copies of an edition of a work are distributed in the Contracting State to the general public or in connexion with systematic instructional activities, by the owner of the right of reproduction or with his authorization, at a price reasonably related to that normally charged in the State for comparable works, any licence granted under this Article shall terminate if such edition is in the same language and is substantially the same in content as the edition published under the licence. Any copies already made before the licence is terminated may continue to be distributed until their stock is exhausted.

(d) No licence shall be granted when the author has withdrawn from circulation all copies of the edition in question.

3. (a) Subject to sub-paragraph (b), the literary, scientific or artistic works to which this Article applies shall be limited to works published in printed or analogous forms of reproduction.

(b) The provisions of this Article shall also apply to reproduction in audio-visual form of lawfully made audio-visual fixations including any protected works incorporated therein and to the translation of any incorporated text into a language in general use in the State with power to grant the license; always provided that the audio-visual fixations in question were prepared and published for the sole purpose of being used in connexion with systematic instructional activities.

ARTICLE VI

"Publication", as used in this Convention, means the reproduction in tangible form and the general distribution to the public of copies of a work from which it can be read or otherwise visually perceived.

ARTICLE VII

This Convention shall not apply to works or rights in works which, at the effective date of this Conven-

tion in a Contracting State where protection is claimed, are permanently in the public domain in the said Contracting State.

ARTICLE VIII

1. This Convention, which shall bear the date of 24 July 1971, shall be deposited with the Director-General and shall remain open for signature by all States party to the 1952 Convention for a period of 120 days after the date of this Convention. It shall be subject to ratification or acceptance by the signatory States.

2. Any State which has not signed this Convention may accede thereto.

3. Ratification, acceptance or accession shall be effected by the deposit of an instrument to that effect with the Director-General.

ARTICLE IX

1. This Convention shall come into force three months after the deposit of twelve instruments of ratification, acceptance or accession.

2. Subsequently, this Convention shall come into force in respect of each State three months after that State has deposited its instrument of ratification, acceptance or accession.

3. Accession to this Convention by a State not party to the 1952 Convention shall also constitute accession to that Convention; however, if its instrument of accession is deposited before this Convention comes into force, such State may make its accession to the 1952 Convention conditional upon the coming into force of this Convention. After the coming into force of this Convention, no State may accede solely to the 1952 Convention.

4. Relations between States party to this Convention and States that are party only to the 1952 Convention, shall be governed by the 1952 Convention. However, any State party only to the 1952 Convention may, by a notification deposited with the Director-General, declare that it will admit the application of the 1971 Convention to works of its nationals or works first published in its territory by all States party to this Convention.

ARTICLE X

1. Each Contracting State undertakes to adopt, in accordance with its Constitution, such measures as are necessary to ensure the application of this Convention.

2. It is understood that at the date this Convention comes into force in respect of any State, that State must be in a position under its domestic law to give effect to the terms of this Convention.

ARTICLE XI

1. An Intergovernmental Committee is hereby established with the following duties:

(a) to study the problems concerning the application and operation of the Universal Copyright Convention;

(b) to make preparation for periodic revisions of this Convention;

(c) to study any other problems concerning the international protection of copyright, in co-operation with the various interested international organizations, such as the United Nations Educational, Scientific and Cultural Organization, the International Union for the Protection of Literary and Artistic Works and the Organization of American States;

(d) to inform States party to the Universal Copyright Convention as to its activities.

2. The Committee shall consist of the representatives of eighteen States party to this Convention or only to the 1952 Convention.

3. The Committee shall be selected with due consideration to a fair balance of national interests on the basis of geographical location, population, languages and stage of development.

4. The Director-General of the United Nations Educational, Scientific and Cultural Organization, the Director-General of the World Intellectual Property Organization and the Secretary-General of the Organization of American States, or their representatives, may attend meetings of the Committee in an advisory capacity.

ARTICLE XII

The Intergovernmental Committee shall convene a conference for revision whenever it deems necessary, or at the request of at least ten States party to this Convention.

ARTICLE XIII

1. Any Contracting State may, at the time of deposit of its instrument of ratification, acceptance or accession, or at any time thereafter, declare by notification addressed to the Director-General that this Convention shall apply to all or any of the countries or territories for the international relations of which it is responsible and this Convention shall thereupon apply to the countries or territories named in such notification after the expiration of the term of three months provided for in Article IX. In the absence of such notification, this Convention shall not apply to any such country or territory.

2. However, nothing in this Article shall be understood as implying the recognition or tacit acceptance by a Contracting State of the factual situation concerning a country or territory to which this Convention is made applicable by another Contracting State in accordance with the provisions of this Article.

ARTICLE XIV

1. Any Contracting State may denounce this Convention in its own name or on behalf of all or any of the countries or territories with respect to which a notification has been given under Article XIII. The denunciation shall be made by notification addressed to the Director-General. Such denunciation shall also constitute denunciation of the 1952 Convention.

2. Such denunciation shall operate only in respect of the State or of the country or territory on whose behalf it was made and shall not take effect until twelve months after the date of receipt of the notification.

ARTICLE XV

A dispute between two or more Contracting States concerning the interpretation or application of this Convention, not settled by negotiation, shall, unless the States concerned agree on some other method of settlement, be brought before the International Court of Justice for determination by it.

ARTICLE XVI

1. This Convention shall be established in English, French, and Spanish. The three texts shall be signed and shall be equally authoritative.

2. Official texts of this Convention shall be established by the Director-General, after consultation with the governments concerned, in Arabic, German, Italian and Portuguese.

3. Any Contracting State or group of Contracting States shall be entitled to have established by the Director-General other texts in the language of its choice by arrangement with the Director-General.

4. All such texts shall be annexed to the signed texts of this Convention.

ARTICLE XVII

1. This Convention shall not in any way affect the provisions of the Berne Convention for the Protection of Literary and Artistic Works or membership in the Union created by that Convention.

2. In application of the foregoing paragraph, a declaration has been annexed to the present Article. This declaration is an integral part of this Convention for the States bound by the Berne Convention on 1 Janu-

ary 1951, or which have or may become bound to it at a later date. The signature of this Convention by such States shall also constitute signature of the said declaration, and ratification, acceptance or accession by such States shall include the declaration, as well as this Convention.

ARTICLE XVIII

This Convention shall not abrogate multilateral or bilateral copyright conventions or arrangements that are or may be in effect exclusively between two or more American Republics. In the event of any difference either between the provisions of such existing conventions or arrangements and the provisions of this Convention, or between the provisions of this Convention and those of any new convention or arrangement which may be formulated between two or more American Republics after this Convention comes into force, the convention or arrangement most recently formulated shall prevail between the parties thereto. Rights in works acquired in any Contracting State under existing conventions or arrangements before the date this Convention comes into force in such State shall not be affected.

ARTICLE XIX

This Convention shall not abrogate multilateral or bilateral conventions or arrangements in effect between two or more Contracting States. In the event of any difference between the provisions of such existing conventions or arrangements and the provisions of this Convention, the provisions of this Convention shall prevail. Rights in works acquired in any Contracting State under existing conventions or arrangements before the date on which this Convention comes into force in such State shall not be affected. Nothing in this Article shall affect the provisions of Articles XVII and XVIII.

ARTICLE XX

Reservations to this Convention shall not be permitted.

ARTICLE XXI

1. The Director-General shall send duly certified copies of this Convention to the States interested and to the Secretary-General of the United Nations for registration by him.

2. He shall also inform all interested States of the ratifications, acceptances and accessions which have been deposited, the date on which this Convention comes into force, the notifications under this Convention and denunciations under Article XIV.

APPENDIX DECLARATION RELATING TO ARTICLE XVII

The States which are members of the International Union for the Protection of Literary and Artistic Works (hereinafter called "the Berne Union") and which are signatories to this Convention,

Desiring to reinforce their mutual relations on the basis of the said Union and to avoid any conflict which might result from the coexistence of the Berne Convention and the Universal Copyright Convention,

Recognizing the temporary need of some States to adjust their level of copyright protection in accordance with their stage of cultural, social and economic development,

Have, by common agreement, accepted the terms of the following declaration:

(a) Except as provided by paragraph (b), works which, according to the Berne Convention, have as their country of origin a country which has withdrawn from the Berne Union after 1 January 1951, shall not be protected by the Universal Copyright Convention in the countries of the Berne Union;

(b) Where a Contracting State is regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, and has deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization, at the time of its withdrawal from the Berne Union, a notification to the effect that it regards itself as a developing country, the provisions of paragraph (a) shall not be applicable as long as such State may avail itself of the exceptions provided for by this Convention in accordance with Article V*bis*;

(c) The Universal Copyright Convention shall not be applicable to the relationships among countries of the Berne Union in so far as it relates to the protection of works having as their country of origin, within the meaning of the Berne Convention, a country of the Berne Union.

RESOLUTION CONCERNING ARTICLE XI

The Conference for Revision of the Universal Copyright Convention,

Having considered the problems relating to the Intergovernmental Committee provided for in Article XI of this Convention, to which this resolution is annexed,

Resolves that:

1. At its inception, the Committee shall include representatives of the twelve States members of the Intergovernmental Committee established under Article XI of the 1952 Convention and the resolution annexed to it, and, in addition, representatives of the following States: Algeria, Australia, Japan, Mexico, Senegal and Yugoslavia.

2. Any States that are not party to the 1952 Convention and have not acceded to this Convention before the first ordinary session of the Committee following the entry into force of this Convention shall be replaced by other States to be selected by the Committee at its first ordinary session in conformity with the provisions of Article XI (2) and (3).

3. As soon as this Convention comes into force the Committee as provided for in paragraph 1 shall be deemed to be constituted in accordance with Article XI of this Convention.

4. A session of the Committee shall take place within one year after the coming into force of this Convention; thereafter the Committee shall meet in ordinary session at intervals of not more than two years.

5. The Committee shall elect its Chairman and two Vice-Chairmen. It shall establish its Rules of Procedure having regard to the following principles:

(a) The normal duration of the term of office of the members represented on the Committee shall be six years with one-third retiring every two years, it being however understood that, of the original terms of office, one-third shall expire at the end of the Committee's second ordinary session which will follow the entry into force of this Convention, a further third at the end of its third ordinary session, and the remaining third at the end of its fourth ordinary session.

(b) The rules governing the procedure whereby the Committee shall fill vacancies, the order in which terms of membership expire, eligibility for reelection, and election procedures, shall be based upon a balancing of the needs for continuity of membership and rotation of representation, as well as the considerations set out in Article XI(3).

Expresses the wish that the United Nations Educational, Scientific and Cultural Organization provide its Secretariat.

In faith whereof the undersigned, having deposited their respective full powers, have signed this Convention.

Done at Paris, this twenty-fourth day of July 1971, in a single copy.

PROTOCOL 1

ANNEXED TO THE UNIVERSAL COPYRIGHT CONVENTION AS REVISED AT PARIS ON 24 JULY 1971 CONCERNING THE APPLICATION OF THAT CONVENTION TO WORKS OF STATELESS PERSONS AND REFUGEES

The States party hereto, being also party to the Universal Copyright Convention as revised at Paris on 24 July 1971 (hereinafter called "the 1971 Convention"),

Have accepted the following provisions:

1. Stateless persons and refugees who have their habitual residence in a State party to this Protocol shall, for the purposes of the 1971 Convention, be assimilated to the nationals of that State.

2. (a) This Protocol shall be signed and shall be subject to ratification or acceptance, or may be acceded to, as if the provisions of Article VIII of the 1971 Convention applied hereto.

(b) This Protocol shall enter into force in respect of each State, on the date of deposit of the instrument of ratification, acceptance or accession of the State concerned or on the date of entry into force of the 1971 Convention with respect to such State, whichever is the later.

(c) On the entry into force of this Protocol in respect of a State not party to Protocol 1 annexed to the 1952 Convention, the latter Protocol shall be deemed to enter into force in respect of such State.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Paris this twenty-fourth day of July 1971, in the English, French and Spanish languages, the three texts being equally authoritative, in a single copy which shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization. The Director-General shall send certified copies to the signatory States, and to the Secretary-General of the United Nations for registration.

Protocol 2

Annexed to the Universal Copyright Convention as revised at Paris on 24 July 1971 concerning the application of that Convention to the works of certain international organizations

The States party hereto, being also party to the Universal Copyright Convention as revised at Paris on 24 July 1971 (hereinafter called "the 1971 Convention"),

Have accepted the following provisions:

1. (a) The protection provided for in Article II (1) of the 1971 Convention shall apply to works published for the first time by the United Nations, by the Specialized Agencies in relationship therewith, or by the Organization of American States.

(b) Similarly, Article II (2) of the 1971 Convention shall apply to the said organization or agencies.

2. (a) This Protocol shall be signed and shall be subject to ratification or acceptance, or may be acceded to, as if the provisions of Article VIII of the 1971 Convention applied hereto.

(b) This Protocol shall enter into force for each State on the date of deposit of the instrument of ratification, acceptance or accession of the State concerned or on the date of entry into force of the 1971 Convention with respect to such State, whichever is the later.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Paris, this twenty-fourth day of July 1971, in the English, French and Spanish languages, the three texts being equally authoritative, in a single copy which shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization. The Director-General shall send certified copies to the signatory States, and to the Secretary-General of the United Nations for registration.

Universal Copyright Convention

Geneva, 1952

The Unesco Universal Copyright Convention was adopted by the Intergovernmental Copyright Conference at Geneva, Switzerland, on Sept. 6, 1952. It entered into force for the United States on Sept. 16, 1955.

The text of the Convention is as follows: The Contracting States,

Moved by the desire to assure in all countries copyright protection of literary, scientific and artistic works,

Convinced that a system of copyright protection appropriate to all nations of the world and expressed in a universal convention, additional to, and without impairing international systems already in force, will ensure respect for the rights of the individual and encourage the development of literature, the sciences and the arts,

Persuaded that such a universal copyright system will facilitate a wider dissemination of works of the human mind and increase international understanding,

Have agreed as follows:

Article I

Each Contracting State undertakes to provide for the adequate and effective protection of the rights of authors and other copyright proprietors in literary, scientific and artistic works, including writings, musical, dramatic and cinematographic works, and paintings, engravings and sculpture.

Article II

1. Published works of nationals of any Contracting State and works first published in that State shall enjoy in each other Contracting State the same protection as that other State accords to works of its nationals first published in its own territory.

2. Unpublished works of nationals of each Contracting State shall enjoy in each other Contracting State the same protection as that other State accords to unpublished works of its own nationals.

3. For the purpose of this Convention any Contracting State may, by domestic legislation, assimilate to its own nationals any person domiciled in that State.

Article III

1. Any Contracting State which, under its domestic law, requires as a condition of copyright, compliance with formalities such as deposit, registration, notice, notarial certificates, payment of fees or manufacture or publication in that Contracting State, shall regard these requirements as satisfied with respect to all works protected in accordance with this Convention and first published outside its territory and the author of which is not one of its nationals, if from the time of the first publication all the copies of the work published with the authority of the author or other copyright proprietor bear the symbol C accompanied by the name of the copyright proprietor and the year of first publication placed in such manner and location as to give reasonable notice of claim of copyright.

2. The provisions of paragraph 1 of this article shall not preclude any Contracting State from requiring formalities or other conditions for the acquisition and enjoyment of copyright in respect of works first published in its territory or works of its nationals wherever published.

3. The provisions of paragraph 1 of this article shall not preclude any Contracting State from providing that a person seeking judicial relief must, in bringing the action, comply with procedural requirements, such as that the complainant must appear through domestic counsel or that the complainant must deposit with the court or an administrative office, or both, a copy of the work involved in the litigation; provided that failure to comply with such requirements shall not affect the validity of the copyright, nor shall any such requirement be imposed upon a national of another Contracting State if such requirement is not imposed on nationals of the State in which protection is claimed.

4. In each Contracting State there shall be legal means of protecting without formalities the unpublished works of nationals of other Contracting States.

5. If a Contracting State grants protection for more than one term of copyright and the first term is for a

period longer than one of the minimum periods prescribed in article IV, such State shall not be required to comply with the provisions of paragraph 1 of this article III in respect of the second or any subsequent term of copyright.

ARTICLE IV

1. The duration of protection of a work shall be governed, in accordance with the provisions of article II and this article, by the law of the Contracting State in which protection is claimed.

2. The term of protection for works protected under this Convention shall not be less than the life of the author and 25 years after his death.

However, any Contracting State which, on the effective date of this Convention in that State, has limited this term for certain classes of works to a period computed from the first publication of the work, shall be entitled to maintain these exceptions and to extend them to other classes of works. For all these classes the term of protection shall not be less than 25 years from the date of first publication.

Any Contracting State which, upon the effective date of this Convention in that State, does not compute the term of protection upon the basis of the life of the author, shall be entitled to compute the term of protection from the date of the first publication of the work or from its registration prior to publication, as the case may be, provided the term of protection shall not be less than 25 years from the date of first publication or from its registration prior to publication, as the case may be.

If the legislation of a Contracting State grants two or more successive terms of protection, the duration of the first term shall not be less than one of the minimum periods specified above.

3. The provisions of paragraph 2 of this article shall not apply to photographic works or to works of applied art; provided, however, that the term of protection in those Contracting States which protect photographic works, or works of applied art in so far as they are protected as artistic works, shall not be less than ten years for each of said classes of works.

4. No Contracting State shall be obliged to grant protection to a work for a period longer than that fixed for the class of works to which the work in question belongs, in the case of unpublished works by the law of the Contracting State of which the author is a national, and in the case of published works by the law of the Contracting State in which the work has been first published.

For the purposes of the application of the preceding provision, if the law of any Contracting State grants two or more successive terms of protection, the period of protection of that State shall be considered to be the aggregate of those terms. However, if a specified work is not protected by such State during the second or any subsequent term for any reason, the other Contracting States shall not be obliged to protect it during the second or any subsequent term.

5. For the purposes of the application of paragraph 4 of this article, the work of a national of a Contracting State, first published in a non-Contracting State, shall be treated as though first published in the Contracting State of which the author is a national.

6. For the purposes of the application of paragraph 4 of this article, in case of simultaneous publication in two or more Contracting States, the work shall be treated as though first published in the State which affords the shortest term; any work published in two or more Contracting States within thirty days of its first publication shall be considered as having been published simultaneously in said Contracting States.

ARTICLE V

1. Copyright shall include the exclusive right of the author to make, publish, and authorize the making and publication of translations of works protected under this Convention.

2. However, any Contracting State may, by its domestic legislation, restrict the right of translation of writings, but only subject to the following provisions:

If, after the expiration of a period of seven years from the date of the first publication of a writing, a translation of such writing has not been published in the national language or languages, as the case may be, of the Contracting State, by the owner of the right of translation or with his authorization, any national of such Contracting State may obtain a non-exclusive license from the competent authority thereof to translate the work and publish the work so translated in any of the national languages in which it has not been published; provided that such national, in accordance with the procedure of the State concerned, establishes either that he has requested, and been denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of a translation in such language are out of print.

If the owner of the right of translation cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the State of which such owner is a national, or to the organization which may have been designated by the government of that State. The license shall not be granted before the expiration of a period of two months from the date of the dispatch of the copies of the application.

Due provision shall be made by domestic legislation to assure to the owner of the right of translation a compensation which is just and conforms to international standards, to assure payment and transmittal of such compensation, and to assure a correct translation of the work.

The original title and the name of the author of the work shall be printed on all copies of the published translation. The license shall be valid only for publication of the translation in the territory of the Contracting State where it has been applied for. Copies so published may be imported and sold in another Contracting State if one of the national languages of such other State is the same language as that into which the work has been so translated, and if the domestic law in such other State makes provision for such licenses and does not prohibit such importation and sale. Where the foregoing conditions do not exist, the importation and sale of such copies in a Contracting State shall be governed by its domestic law and its agreements. The license shall not be transferred by the licensee.

The license shall not be granted when the author has withdrawn from circulation all copies of the work.

ARTICLE VI

"Publication", as used in this Convention, means the reproduction in tangible form and the general distribution to the public of copies of a work from which it can be read or otherwise visually perceived.

ARTICLE VII

This Convention shall not apply to works or rights in works which, at the effective date of the Convention in a Contracting State where protection is claimed, are permanently in the public domain in the said Contracting State.

ARTICLE VIII

1. This Convention, which shall bear the date of September 6, 1952, shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization and shall remain open for signature by all States for a period of 120 days after that date. It shall be subject to ratification or acceptance by the signatory States.

2. Any State which has not signed this Convention may accede thereto.

3. Ratification, acceptance or accession shall be effected by the deposit of an instrument to that effect with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

ARTICLE IX

1. This Convention shall come into force three months after the deposit of twelve instruments of ratification, acceptance or accession, among which there shall be those of four States which are not members of the International Union for the Protection of Literary and Artistic Works.

2. Subsequently, this Convention shall come into force in respect of each State three months after that State has deposited its instrument of ratification, acceptance or accession.

ARTICLE X

1. Each State party to this Convention undertakes to adopt, in accordance with its Constitution, such measures as are necessary to ensure the application of this Convention.

2. It is understood, however, that at the time an instrument of ratification, acceptance or accession is deposited on behalf of any State, such State must be in a position under its domestic law to give effect to the terms of this Convention.

ARTICLE XI

1. An Intergovernmental Committee is hereby established with the following duties:

(a) to study the problems concerning the application and operation of this Convention;

(b) to make preparation for periodic revisions of this Convention;

(c) to study any other problems concerning the international protection of copyright, in co-operation with the various interested international organizations, such as the United Nations Educational, Scientific and Cultural Organization, the International Union for the Protection of Literary and Artistic Works and the Organization of American States;

(d) to inform the Contracting States as to its activities.

2. The Committee shall consist of the representatives of twelve Contracting States to be selected with due consideration to fair geographical representation and in conformity with the Resolution relating to this article, annexed to this Convention.

The Director-General of the United Nations Educational, Scientific and Cultural Organization, the Director of the Bureau of the International Union for the Protection of Literary and Artistic Works and the Secretary-General of the Organization of American States, or their representatives, may attend meetings of the Committee in an advisory capacity.

ARTICLE XII

The Intergovernmental Committee shall convene a conference for revision of this Convention whenever it deems necessary, or at the request of at least ten Contracting States, or of a majority of the Contracting States if there are less than twenty Contracting States.

ARTICLE XIII

Any Contracting State may, at the time of deposit of its instrument of ratification, acceptance or accession, or at any time thereafter, declare by notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization that this Convention shall apply to all or any of the countries or territories for the international relations of which it is responsible and this Convention shall thereupon apply to the countries or territories named in such notification after the expiration of the term of three months provided for in article IX. In the absence of such notification, this Convention shall not apply to any such country or territory.

ARTICLE XIV

1. Any Contracting State may denounce this Convention in its own name or on behalf of all or any of the countries or territories as to which a notification has been given under article XIII. The denunciation shall be made by notification addressed to the Director-General of the United Nations Educational, Scientific and Cultural Organization.

2. Such denunciation shall operate only in respect of the State or of the country or territory on whose behalf it was made and shall not take effect until twelve months after the date of receipt of the notification.

ARTICLE XV

A dispute between two or more Contracting States concerning the interpretation or application of this Convention, not settled by negotiation, shall, unless the States concerned agree on some other method of settlement, be brought before the International Court of Justice for determination by it.

ARTICLE XVI

1. This Convention shall be established in English, French and Spanish. The three texts shall be signed and shall be equally authoritative.

2. Official texts of this Convention shall be established in German, Italian and Portuguese.

Any Contracting State or group of Contracting States shall be entitled to have established by the Director-General of the United Nations Educational, Scientific and Cultural Organization other texts in the language of its choice by arrangement with the Director-General.

All such texts shall be annexed to the signed texts of this Convention.

ARTICLE XVII

1. This Convention shall not in any way affect the provisions of the Berne Convention for the Protection of Literary and Artistic Works or membership in the Union created by that Convention.

2. In application of the foregoing paragraph, a Declaration has been annexed to the present article. This Declaration is an integral part of this Convention for the States bound by the Berne Convention on January 1, 1951, or which have or may become bound to it at a later date. The signature of this Convention by such States shall also constitute signature of the said Declaration, and ratification, acceptance or accession by such States shall include the Declaration as well as the Convention.

ARTICLE XVIII

This Convention shall not abrogate multilateral or bilateral copyright conventions or arrangements that are or may be in effect exclusively between two or more American Republics. In the event of any difference either between the provisions of such existing conventions or arrangements and the provisions of this Convention, or between the provisions of this Convention and those of any new convention or arrangement which may be formulated between two or more American Republics after this Convention comes into force, the convention or arrangement most recently formulated shall prevail between the parties thereto. Rights in works acquired in any Contracting State under existing conventions or arrangements before the date this Convention comes into force in such State shall not be affected.

ARTICLE XIX

This Convention shall not abrogate multilateral or bilateral conventions or arrangements in effect between two or more Contracting States. In the event of

any difference between the provisions of such existing conventions or arrangements and the provisions of this Convention, the provisions of this Convention shall prevail. Rights in works acquired in any Contracting State under existing conventions or arrangements before the date on which this Convention comes into force in such State shall not be affected. Nothing in this article shall affect the provisions of article XVII and XVIII of this Convention.

ARTICLE XX

Reservations to this Convention shall not be permitted.

ARTICLE XXI

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall send duly certified copies of this Convention to the States interested, to the Swiss Federal Council and to the Secretary-General of the United Nations for registration by him.

He shall also inform all interested States of the ratifications, acceptances and accessions which have been deposited, the date on which this Convention comes into force, the notifications under Article XIII of this Convention, and denunciations under Article XIV.

APPENDIX DECLARATION RELATING TO ARTICLE XVII

The States which are members of the International Union for the Protection of Literary and Artistic Works, and which are signatories to the Universal Copyright Convention,

Desiring to reinforce their mutual relations on the basis of the said Union and to avoid any conflict which might result from the co-existence of the Convention of Berne and the Universal Convention,

Have, by common agreement, accepted the terms of the following declaration:

(a) Works which, according to the Berne Convention, have as their country of origin a country which has withdrawn from the International Union created by the said Convention, after January 1, 1951, shall not be protected by the Universal Copyright Convention in the countries of the Berne Union;

(b) The Universal Copyright Convention shall not be applicable to the relationships among countries of the Berne Union insofar as it relates to the protection of works having as their country of origin, within the meaning of the Berne Convention, a country of the International Union created by the said Convention.

RESOLUTION CONCERNING ARTICLE XI

The Intergovernmental Copyright Conference

Having considered the problems relating to the Intergovernmental Committee provided for in Article XI of the Universal Copyright Convention

resolves

1. The first members of the Committee shall be representatives of the following twelve States, each of those States designating one representative and an alternate: Argentina, Brazil, France, Germany, India, Italy, Japan, Mexico, Spain, Switzerland, United Kingdom, and United States of America.

2. The Committee shall be constituted as soon as the Convention comes into force in accordance with article XI of this Convention;

3. The Committee shall elect its Chairman and one Vice-Chairman. It shall establish its rules of procedure having regard to the following principles:

(a) the normal duration of the term of office of the representatives shall be six years; with one third retiring every two years;

(b) before the expiration of the term of office of any members, the Committee shall decide which States shall cease to be represented on it and which States shall be called upon to designate representatives; the representatives of those States which have not ratified, accepted or acceded shall be the first to retire;

(c) the different parts of the world shall be fairly represented;

and expresses the wish

that the United Nations Educational, Scientific, and Cultural Organization provide its Secretariat.

In faith whereof the undersigned, having deposited their respective full powers, have signed this Convention. Done at Geneva, this sixth day of September, 1952 in a single copy.

Protocol 1 annexed to the Universal Copyright Convention concerning the application of that Convention to the works of stateless persons and refugees

The States parties hereto, being also parties to the Universal Copyright Convention (hereinafter referred to as the "Convention") have accepted the following provisions:

1. Stateless persons and refugees who have their habitual residence in a State party to this Protocol shall, for the purposes of the Convention, be assimilated to the nationals of that State.

2. (a) This Protocol shall be signed and shall be subject to ratification or acceptance, or may be acceded to, as if the provisions of article VIII of the Convention applied hereto.

(b) This Protocol shall enter into force in respect of each State, on the date of deposit of the instrument of ratification, acceptance or accession of the State concerned or on the date of entry into force of the Convention with respect to such State, whichever is the later.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Geneva this sixth day of September, 1952, in the English, French and Spanish languages, the three texts being equally authoritative, in a single copy which shall be deposited with the Director-General of Unesco. The Director-General shall send certified copies to the signatory States, to the Swiss Federal Council and to the Secretary-General of the United Nations for registration.

Protocol 2 annexed to the Universal Copyright Convention, concerning the application of that Convention to the works of certain international organizations

The State parties hereto, being also parties to the Universal Copyright Convention (hereinafter referred to as the "Convention"),

Have accepted the following provisions:

1. (a) The protection provided for in article II (1) of the Convention shall apply to works published for the first time by the United Nations, by the Specialized Agencies in relationship therewith, or by the Organisation of American States;

(b) Similarly, article II (2) of the Convention shall apply to the said organisation or agencies.

2. (a) This Protocol shall be signed and shall be subject to ratification or acceptance, or may be acceded to, as if the provisions of article VIII of the Convention applied hereto.

(b) This Protocol shall enter into force for each State on the date of deposit of the instrument of ratification, acceptance or accession of the State concerned or on the date of entry into force of the Convention with respect to such State, whichever is the later.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Geneva, this sixth day of September, 1952, in the English, French and Spanish languages, the three texts being equally authoritative, in a single copy which shall be deposited with the Director-General of the Unesco.

The Director-General shall send certificated copies to the signatory States, to the Swiss Federal Council, and to the Secretary-General of the United Nations for registration.

Protocol 3 annexed to the Universal Copyright Convention concerning the effective date of instruments of ratification or acceptance of or accession to that Convention

States parties hereto,

Recognizing that the application of the Universal Copyright Convention (hereinafter referred to as the "Convention") to States participating in all the international copyright systems already in force will contribute greatly to the value of the Convention;

Have agreed as follows:

1. Any State party hereto may, on depositing its instrument of ratification or acceptance of or accession to the Convention, notify the Director-General of the United Nations Educational, Scientific and Cultural Organization (hereinafter referred to as "Director-General") that that instrument shall not take effect for the purposes of Article IX of the Convention until any other State named in such notification shall have deposited its instrument.

2. The notification referred to in paragraph 1 above shall accompany the instrument to which it relates.

3. The Director-General shall inform all States signatory or which have then acceded to the Convention of any notifications received in accordance with this Protocol.

4. This Protocol shall bear the same date and shall remain open for signature for the same period as the Convention.

5. It shall be subject to ratification or acceptance by the signatory States. Any State which has not signed this Protocol may accede thereto.

6. (a) Ratification or acceptance or accession shall be effected by the deposit of an instrument to that effect with the Director-General.

(b) This Protocol shall enter into force on the date of deposit of not less than four instruments of ratification or acceptance or accession. The Director-General shall inform all interested States of this date. Instruments deposited after such date shall take effect on the date of their deposit.

In faith whereof the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Geneva, the sixth day of September 1952, in the English, French and the Spanish languages, the three texts being equally authoritative, in a single copy which shall be annexed to the original copy of the Convention. The Director-General shall send certified copies to the signatory States to the Swiss Federal council, and to the Secretary-General of United Nations for registration.

Particular Proclamations, Treaties and Conventions Establishing Copyright Relations Between the United States of America and Other Countries

(Revised to January 1, 1979)

By virtue of presidential proclamations, treaties, and conventions, the United States has established copyright relations with various other countries. This appendix is an attempt to present a complete and annotated list of those countries. Treaties and conventions on the subject of copyright relations in force January 1, 1961, are also included in the preceding pages under appropriate country or subject headings.

Proclamations by the President of the United States extending copyright protection, upon compliance with the provisions of the United States copyright law, to the works of foreign authors prior to July 1, 1909, were issued pursuant to section 13 of the Act of March 3, 1891 (26 Stat. 1106) and those issued subsequent to July 1, 1909, were issued under the provisions of sections 1(e) and 8(b) of the Act of March 4, 1909 (35 Stat. 1075) and as later amended. Section 8(b) was amended by the Act of December 18, 1919 (41 Stat. 368) and the Act of September 25, 1941 (55 Stat. 732). Those sections of the Act of March 4, 1909, as amended, became sections 1(e) and 9(b), respectively, of Title 17 of the United States Code when it was codified and enacted into positive law by the Act of July 30, 1947 (61 Stat. 652). A number of the proclamations were preceded or accompanied by exchanges of diplomatic notes which served as the basis for their issuance. Such exchanges of notes, if in force January 1, 1958, and if printed in the official pamphlet series, are included in the preceding pages under appropriate country and subject headings.

The period for compliance with the conditions and formalities prescribed by the copyright law was extended by proclamation with respect to certain works in the case of a number of countries because of the disruption or suspension of facilities essential for such compliance during World War I and World War II. In the case of World War I this period was extended by proclamations issued under the Act of December 18, 1919 (41 Stat. 368) to fifteen months after the proclamation of peace, as to works published after August 1, 1914, and before the proclamation of peace. In the case of World War II, this period was extended by proclamations issued under the Act of September 25, 1941 (55 Stat. 732) until such time as terminated or suspended, either by the terms of the proclamation itself or by the issuance of a subsequent proclamation. A number of the proclamations issued under the 1919 Act and all of the proclamations issued under the 1941 Act or section 9(b) of title 17 of the United States Code refer to rights previously granted.

KEY TO SYMBOLS

Proclamations

P	Proclamation issued pursuant to section 13 of the Act of March 3, 1891, Section 8(b) of the Act of March 4, 1909, and as amended, or Section 9(b) of Title 17 of the United States Code.
Pm	Proclamation including mechanical reproduction rights for music under Section 1(e) of the United States copyright law.
Px	Proclamation providing an extension of time under the Act of December 18, 1919, for compliance with the conditions and formalities prescribed by the United States copyright law.
Pmx	Proclamation specifically including provisions similar to those contained in both "Pm" and "Px" proclamations.
Pxx	Proclamation providing an extension of time under the Act of September 25, 1941, for compliance with the conditions and formalities prescribed by the United States copyright law.
Po	Proclamation specifically issued for the purpose of terminating a proclamation issued under the Act of September 25, 1941.

Treaties and Conventions

BAC	Buenos Aires Convention. Convention on literary and artistic copyright signed at the Fourth International Conference of American States at Buenos Aires August 11, 1910.
MCC	Mexico City Convention. Convention on literary and artistic copyrights signed at the Second International Conference of American States at Mexico January 27, 1902.
UCC	Universal Copyright Convention. Done at Geneva September 6, 1952.
UCC rev.	Universal Copyright Convention, revised. Done at Paris July 24, 1971.
C	Bilateral convention.
Cm	Bilateral convention including provisions covering mechanical reproduction rights for music.
T	Treaty relating in part to copyright.

PROCLAMATIONS, TREATIES, AND CONVENTIONS ESTABLISHING COPYRIGHT RELATIONS BETWEEN THE UNITED STATES AND OTHER COUNTRIES

Country	Document	Date of document	Date effective	Reference
Algeria	UCC	Sept. 6, 1952	Aug. 28, 1973	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Andorra	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Argentina	Pm	Aug. 23, 1934	Aug. 23, 1934	49 Stat. 3413.
	BAC	Aug. 11, 1910	Apr. 19, 1950	38 Stat. 1785.
	UCC	Sept. 6, 1952	Feb. 13, 1958	6 UST 2731.
Australia [1]	Pm	Apr. 3, 1918	Mar. 15, 1918	40 Stat. 1764.
	Pxx [2]	Dec. 29, 1949	Dec. 29, 1949	64 Stat. A385.
	UCC	Sept. 6, 1952	May 1, 1969	6 UST 2731.
Austria [3]	P	Sept. 20, 1907	Sept. 20, 1907	35 Stat. 2155.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Px	May 25, 1922	May 25, 1922	42 Stat. 2273.
	Pm	Mar. 11, 1925	Aug. 1, 1920	44 Stat. 2571.
	UCC	Sept. 6, 1952	July 2, 1957	6 UST 2731.
Bahamas, The	UCC	Sept. 6, 1952	Oct. 11, 1976	6 UST 2731.
	UCC rev.	July 24, 1971	Dec. 26, 1976	25 UST 1341.
Bangladesh	UCC	Sept. 6, 1952	Aug. 5, 1975	6 UST 2731.
Belgium	P	July 1, 1891	July 1, 1891	27 Stat. 981.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	June 14, 1911	.....do.....	37 Stat. 1688.
	UCC	Sept. 6, 1952	Aug. 31, 1960	6 UST 2731.
Bolivia	BAC	Aug. 11, 1910	May 15, 1914	38 Stat. 1785.
Brazil	BAC	.....do.....	Aug. 31, 1915	Do.
	Pm	Apr. 2, 1957	Apr. 2, 1957	8 UST 424.
	UCC	Sept. 6, 1952	Jan. 13, 1960	6 UST 2731.
	UCC rev.	July 24, 1971	Dec. 11, 1975	25 UST 1341.
Bulgaria	UCC	Sept. 6, 1952	June 7, 1975	6 UST 2731.
	UCC rev.	July 24, 1971	June 7, 1975	25 UST 1341.
Cambodia	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Cameroon	UCC	Sept. 6, 1952	May 1, 1973	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 134.
Canada [1]	Pm	Dec. 27, 1923	Jan. 1, 1924	43 Stat. 1932.
	UCC	Sept. 6, 1952	Aug. 10, 1962	6 UST 2731.
Chile	P	May 25, 1896	May 25, 1896	29 Stat. 880.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Nov. 18, 1925	July 1, 1925	44 Stat. 2590.
	BAC	Aug. 11, 1910	June 14, 1955	38 Stat. 1785.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
China	T [4]	Oct. 8, 1903	Jan. 13, 1904	33 Stat. 2208.
	T [4]	Nov. 4, 1946	Nov. 30, 1948	63 Stat. 1299.
Colombia	BAC	Aug. 11, 1910	Dec. 23, 1936	38 Stat. 1785.
	UCC	Sept. 6, 1952	June 18, 1976	6 UST 2721.
	UCC rev.	July 24, 1971	.....do.....	25 UST 1341.
Costa Rica	P	Oct. 19, 1899	Oct. 19, 1899	31 Stat. 1955.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Nov. 30, 1916	38 Stat. 1785.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Cuba	P	Nov. 17, 1903	Nov. 17, 1903	33 Stat. 2324.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Nov. 27, 1911	May 29, 1911	37 Stat. 1721.
	UCC	Sept. 6, 1952	June 18, 1957	6 UST 2731.
Czechoslovakia.	Pm	Apr. 27, 1927	Mar. 1, 1927	45 Stat. 2906.
	UCC	Sept. 6, 1952	Jan. 6, 1960	6 UST 2731.

PROCLAMATIONS, TREATIES, AND CONVENTIONS ESTABLISHING COPYRIGHT RELATIONS BETWEEN THE UNITED STATES AND OTHER COUNTRIES—CONTINUED

Country	Document	Date of document	Date effective	Reference
Danzig	Pm	Apr. 7, 1934	Apr. 7, 1934	48 Stat. 1737.
Denmark [5]	P	May 8, 1893	May 8, 1893	28 Stat. 1219.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pmx	Dec. 9, 1920	Dec. 9, 1920	41 Stat. 1810.
	Pxx	Feb. 4, 1952	Feb. 4, 1952	66 Stat. C20.
	UCC	Sept. 6, 1952	Feb. 9, 1962	6 UST 2731.
Dominican Republic.	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Oct. 31, 1912	38 Stat. 1785.
Ecuador	BAC	.....do.....	Aug. 31, 1914	Do.
	UCC	Sept. 6, 1952	June 5, 1957	6 UST 2731.
El Salvador	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
Fiji	UCC	Sept. 6, 1952	May 4, 1963	6 UST 2731.
Finland	Pm	Dec. 15, 1928	Jan. 1, 1929	45 Stat. 2980.
	Pxx	Nov. 16, 1951	Nov. 16, 1951	66 Stat. C5.
	UCC	Sept. 6, 1952	Apr. 16, 1963	6 UST 2731.
France [6]	P	July 1, 1891	July 1, 1891	27 Stat. 981.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	May 24, 1918	May 24, 1918	40 Stat. 1784.
	Pxx	Mar. 27, 1947	Mar. 27, 1947	61 Stat. 1057.
	Po	May 26, 1950	Dec. 29, 1950	64 Stat. A413.
	UCC	Sept. 6, 1952	Jan. 14, 1956	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
German Dem. Rep.	UCC	Sept. 6, 1952	Oct. 5, 1973	6 UST 2731.
Germany [3]	P	Apr. 15, 1892	Apr. 15, 1892	27 Stat. 1021.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Dec. 8, 1910	Dec. 8, 1910	36 Stat. 2761.
	Px	May 25, 1922	May 25, 1922	42 Stat. 2271.
Germany, Fed. Rep.	Pxx	July 12, 1967	July 12, 1967	18 UST 2369.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
	UCC rev.	July 24, 1971	July 24, 1974	25 UST 1341.
Ghana	UCC	Sept. 6, 1952	Aug. 22, 1962	6 UST 2731.
Greece	Pm	Feb. 23, 1932	Mar. 1, 1932	47 Stat. 2502.
	UCC	Sept. 6, 1952	Aug. 24, 1963	6 UST 2731.
Guatemala	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Mar. 28, 1913	38 Stat. 1785.
	UCC	Sept. 6, 1952	Oct. 28, 1964	6 UST 2731.
Haiti	BAC	Aug. 11, 1910	Nov. 27, 1919	38 Stat. 1785.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Holy See	UCC	.....do.....	Oct. 5, 1955	Do.
Honduras	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Apr. 27, 1914	38 Stat. 1785.
Hungary [3]	Cm [7]	Jan. 30, 1912	Oct. 16, 1912	37 Stat. 1631.
	Px	June 3, 1922	June 3, 1922	42 Stat. 2277.
	T [8,9]	Feb. 10, 1947	Sept. 15, 1947	61 Stat. 2065.
	UCC	Sept. 6, 1952	Jan. 23, 1971	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Iceland	UCC	Sept. 6, 1952	Dec. 18, 1956	6 UST 2731.
India [1,10]	Pm	Oct. 21, 1954	Aug. 15, 1947	5 UST 2529.
	UCC	Sept. 6, 1952	Jan. 21, 1958	6 UST 2731.
Ireland [1]	Pm [11]	Sept. 28, 1929	Oct. 1, 1929	46 Stat. 3005.
	UCC	Sept. 6, 1952	Jan. 20, 1959	6 UST 2731.
Israel [12]	Pm	May 4, 1950	May 15, 1948	64 Stat. A402.
	UCC	Dec. 16, 1952	Sept. 16, 1955	6 UST 2731.
Italy	P [13]	Oct. 31, 1892	Oct. 31, 1892	27 Stat. 1043.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm [13]	May 1, 1915	May 1, 1915	39 Stat. 1725.

PROCLAMATIONS, TREATIES, AND CONVENTIONS ESTABLISHING COPYRIGHT RELATIONS BETWEEN THE UNITED STATES AND OTHER COUNTRIES—CONTINUED

Country	Document	Date of document	Date effective	Reference
Italy—Cont.	Px	June 3, 1922	June 3, 1922	42 Stat. 2276.
	T[9][14]	Feb. 10, 1947	Sept. 15, 1947	61 Stat. 1245.
	Pxx	Dec. 12, 1951	Dec. 12, 1951	66 Stat. C13.
	UCC	Sept. 6, 1952	Jan. 24, 1957	6 UST 2731.
Japan	C[15]	Nov. 10, 1905	May 10, 1906	34 Stat. 2890.
	C[16]	May 19, 1908	Aug. 16, 1908	35 Stat. 2044.
	T[17]	Sept. 8, 1951	Apr. 28, 1952	3 UST 3169.
	Pm[18]	Nov. 10, 1953	.....do.....	5 UST 118.
	UCC	Sept. 6, 1952	Apr. 28, 1956	6 UST 2731.
	UCC rev.	July 24, 1971	Oct. 19, 1977	25 UST 1341.
Kenya	UCC	Sept. 6, 1952	Sept. 7, 1968	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Korea	C[19]	May 19, 1908	Aug. 16, 1908	35 Stat. 2041.
Laos	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Lebanon	UCC	.....do.....	Oct. 17, 1959	Do.
Liberia	UCC	.....do.....	July 27, 1956	Do.
Leichtenstein	UCC	.....do.....	Jan. 22, 1959	Do.
Luxembourg	P	June 29, 1910	June 29, 1910	36 Stat. 2716.
	Pm	June 14, 1911	June 29, 1910	37 Stat. 1689.
	UCC	Sept. 6, 1952	Oct. 15, 1955	6 UST 2731.
Malawi	UCC	Sept. 6, 1952	Oct. 26, 1965	6 UST 2731.
Malta	UCC	Sept. 6, 1952	Nov. 19, 1968	6 UST 2731.
Mauritius	UCC	Sept. 6, 1952	Mar. 12, 1968	6 UST 2731.
Mexico	P	Feb. 27, 1896	Feb. 27, 1896	29 Stat. 877.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	UCC	Sept. 6, 1952	May 12, 1957	6 UST 2731.
	UCC rev.	July 24, 1971	Oct. 31, 1975	25 UST 1341.
Monaco	Pm	Oct. 15, 1952	Oct. 15, 1952	67 Stat. C16.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
	UCC rev.	July 24, 1971	Dec. 13, 1974	25 UST 1341.
Morocco	UCC	Sept. 6, 1952	May 8, 1972	6 UST 2731.
	UCC rev.	July 24, 1971	Jan. 28, 1976	25 UST 1341.
Netherlands and Possessions.[20]	P	Nov. 20, 1899	Nov. 20, 1899	31 Stat. 1961.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Feb. 26, 1923	Oct. 2, 1922	42 Stat. 2297.
New Zealand[1]	Pm	Feb. 9, 1917	Dec. 1, 1916	39 Stat. 1815.
	Px	May 25, 1922	May 25, 1922	42 Stat. 2274.
	Pxx	Apr. 24, 1947	Apr. 24, 1947	61 Stat. 1065.
	Po	May 26, 1950	Dec. 29, 1950	64 Stat. A414.
	UCC	Sept. 6, 1952	Sept. 11, 1964	6 UST 2731.
Nicaragua	MCC	Jan. 27, 1902	June 30, 1908	35 Stat. 1934.
	BAC	Aug. 11, 1910	Dec. 15, 1913	38 Stat. 1785.
	UCC	Sept. 6, 1952	Aug. 16, 1961	6 UST 2731.
Nigeria	UCC	.....do.....	Feb. 14, 1962	Do.
Norway	P	July 1, 1905	July 1, 1905	34 Stat. 3111.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	June 14, 1911	Sept. 9, 1910	37 Stat. 1687.
	UCC	Sept. 6, 1952	Jan. 23, 1963	6 UST 2731.
	UCC rev.	July 24, 1971	Aug. 7, 1974	25 UST 1341.
Pakistan	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
Palestine (excluding Trans-Jordan).	Pm	Sept. 29, 1933	Oct. 1, 1933	48 Stat. 1713. 58 Stat. 1129.
	Pxx[12]	Mar. 10, 1944	Mar. 10, 1944	64 Stat. A412.
	Po[12]	May 26, 1950	Dec. 29, 1950	
Panama	BAC	Aug. 11, 1910	Nov. 25, 1913	38 Stat. 1785.
	UCC	Sept. 6, 1952	Oct. 17, 1962	6 UST 2731.

PROCLAMATIONS, TREATIES, AND CONVENTIONS ESTABLISHING COPYRIGHT RELATIONS BETWEEN THE UNITED STATES AND OTHER COUNTRIES—CONTINUED

Country	Document	Date of document	Date effective	Reference
Paraguay	BAC	Aug. 11, 1910	Sept. 20, 1917	38 Stat. 1785.
	UCC	Sept. 6, 1952	Mar. 11, 1962	6 UST 2731.
Peru	BAC	Aug. 11, 1910	Apr. 30, 1920	38 Stat. 1785.
	UCC	Sept. 6, 1952	Oct. 16, 1963	6 UST 2731.
Philippines	Pm	Oct. 21, 1948	Oct. 21, 1948	62 Stat. 1568.
	UCC[21]	Sept. 6, 1952		6 UST 2731.
Poland	Pm	Feb. 14, 1927	Feb. 16, 1927	44 Stat. 2634.
	UCC	Sept. 6, 1952	Mar. 10, 1977	6 UST 2731
	UCC rev.	July 24, 1971	Mar. 10, 1977	25 UST 1341
Portugal	P	July 20, 1893	July 20, 1893	28 Stat. 1222.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	UCC	Sept. 6, 1952	Dec. 25, 1956	6 UST 2731.
Rumania	Pm[22]	May 14, 1928	May 14, 1928	45 Stat. 2949.
	T[9][23]	Feb. 10, 1947	Sept. 15, 1947	61 Stat. 1757.
Senegal	UCC	Sept. 6, 1952	July 10, 1974	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
South Africa[1]	Pm	June 26, 1924	July 1, 1924	43 Stat. 1957.
Spain[1]	P[24]	July 10, 1895	July 10, 1895	29 Stat. 871.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Oct. 10, 1934	Oct. 10, 1934	49 Stat. 3420.
	UCC	Sept. 6, 1952	Sept. 16, 1955	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Sweden	P	May 26, 1911	June 1, 1911	37 Stat. 1682.
	Pm	Feb. 27, 1920	Feb. 1, 1920	41 Stat. 1787.
	UCC	Sept. 6, 1952	July 1, 1961	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Switzerland	P	July 1, 1891	July 1, 1891	27 Stat. 981.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Nov. 22, 1924	July 1, 1923	43 Stat. 1976.
	UCC	Sept. 6, 1952	Mar. 30, 1956	6 UST 2731.
Thailand	T[25]	Dec. 16, 1920	Sept. 1, 1921	42 Stat. 1928.
	T[25]	Nov. 13, 1937	Oct. 1, 1938	53 Stat. 1731.
	T[25]	May 29, 1968	June 8, 1968	19 UST 5843.
Tunisia	P	Oct. 4, 1912	Oct. 4, 1912	37 Stat. 1765.
	UCC	Sept. 6, 1952	June 19, 1969	6 UST 2731.
	UCC rev.	July 24, 1971	June 10, 1975	25 UST 1341.
Union of Soviet Socialist Reps.	UCC	Sept. 6, 1952	May 27, 1973	6 UST 2731.
United Kingdom.	UCC	Sept. 6, 1952	Sept. 27, 1957	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
United Kingdom and Possessions.[1]	P	July 1, 1891	July 1, 1891	27 Stat. 981.
	P	Apr. 9, 1910	July 1, 1909	36 Stat. 2685.
	Pm	Jan. 1, 1915	Jan. 1, 1915	38 Stat. 2044. 41 Stat. 1790.
United Kingdom and the British Dominions, Colonies and Possessions with the exception of Canada, Australia, New Zealand, South Africa and Newfoundland.[1]	Pmx	Apr. 10, 1920	Feb. 2, 1920	

PROCLAMATIONS, TREATIES, AND CONVENTIONS ESTABLISHING COPYRIGHT RELATIONS BETWEEN THE UNITED STATES AND OTHER COUNTRIES—CONTINUED

Country	Document	Date of document	Date effective	Reference
United Kingdom, certain British Territories[1] and Palestine[12]	Pxx	Mar. 10, 1944	Mar. 10, 1944	58 Stat. 1129.
	Po	May 26, 1950	Dec. 29, 1950	64 Stat. A412.
Uruguay	BAC	Aug. 11, 1916	Dec. 17, 1919	38 Stat. 1785.
Venezuela	UCC	Sept. 6, 1952	Sept. 30, 1966	6 UST 2731.
Yugoslavia	UCC	Sept. 6, 1952	May 11, 1966	6 UST 2731.
	UCC rev.	July 24, 1971	July 10, 1974	25 UST 1341.
Zambia	UCC	Sept. 6, 1952	June 1, 1965	6 UST 2731.

[1]The proclamations of July 1, 1891 and April 9, 1910 apply to "Great Britain and the British possessions", but the proclamations of January 1, 1915 and April 10, 1920 specifically except Australia, Canada, Newfoundland, New Zealand and South Africa. The proclamations of March 10, 1944 and May 26, 1950 enumerate the various British territories to which they apply, excluding the areas specifically excepted in the proclamations of 1915 and 1920. Proclamations establishing individual copyright relations with Australia, Canada, Ireland, New Zealand, Palestine, and South Africa are listed separately. (See also footnotes 2, 11, 12.)

The proclamation of December 27, 1923 regarding Canada is considered as applying to Newfoundland at the present time.

The copyright proclamations of July 1, 1891, April 9, 1910, January 1, 1915, April 10, 1920, and March 10, 1944 regarding Great Britain and possessions each applied when issued to the areas now within the boundaries of Burma, Ceylon, India, and Pakistan. See footnote 10 with respect to India. No announcement has been made as to the application of the proclamations to Burma, Ceylon, and Pakistan since they acquired their new status.

[2]The proclamation of December 29, 1949 extends for one year from its date the period of time for compliance by citizens of Australia with the conditions and formalities prescribed by the copyright law of the United States.

[3]The United States entered into treaties restoring friendly relations with Austria, Germany, and Hungary at Vienna on August 24, 1921 (42 Stat. 1946; TS 659); at Berlin on August 25, 1921 (42 Stat. 1939; TS 658) and at Budapest on August 29, 1921 (42 Stat. 1951; TS 610), respectively. By virtue of these treaties the United States became entitled to the benefits of the provisions relative to copyright protection in the treaties of peace signed by Austria, Germany and Hungary at Saint-Germain-en-Laye on September 10, 1919, at Versailles on June 28, 1919, and at Trianon on June 4, 1920, respectively. (See also footnote 7.)

[4]The Treaty of Friendship, Commerce and Navigation (Art. IX) together with the Protocol (par. 5) signed at Nanking November 4, 1946, and the reservation and understandings in the ratification by the United States (TIAS 1871) govern present copyright relations between the United States and China. Although Article XXIX of this Treaty lists the earlier Treaty as to Commercial Relations signed at Shanghai October 8, 1903 (33 Stat. 2208, TS 430) as superseded by the 1946 Treaty, the ratification by the United States provides in part that the 1946 Treaty is subject to the following reservation and understandings: "The Government of the United States of America does not accept Section 5(c) of the Protocol relating to protection against translations of literary and artistic works, and with the understanding that United States interests in this respect will be interpreted in accordance with the provisions of the Treaty as to Commercial Relations signed at Shanghai, October 8, 1903, until further negotiations and agreement concerning translations are forthcoming."

[5]Treaties and Conventions containing provisions relative to copyright protection in territories ceded to the United States are not included in this table: for example, the Treaty of Peace with Spain signed at Paris December 10, 1898 (30 Stat. 1754; TS 343), Art. XIII (see also footnote 25); and the Convention with Denmark for the Cession to the United States of the Danish West Indies, signed at New York, August 4, 1916 (39 Stat. 1706; TS 629), Art. 9.

[6]The Department of State has made no announcement as to the application of the proclamations of July 1, 1891, April 9, 1910, May 24, 1918, and March 27, 1947 to Cambodia, Laos, and Viet-Nam.

[7]Copyright Convention signed at Budapest January 30, 1912 (TS 571). This Convention was continued in force following World War I by notice given by the United States on May 27, 1922 to Hungary in pursuance of Article 224 of the Treaty of Trianon concluded on June 4, 1920 (III Redmond 3539), to the benefits of which the United States became entitled by the Treaty of August 29, 1921 establishing friendly relations between the United States and Hungary (42 Stat. 1951; TS 660). The Convention of 1912 was kept in force or revived following World War II by notice given on March 9, 1948 by the United States to Hungary pursuant to Article 10 of the Treaty of Peace with Hungary (61 Stat. 2065; Department of State Bulletin March 21, 1948; p. 382).

[8]Treaty of Peace with Hungary (Annex IV A) dated at Paris February 10, 1947 (TIAS 1651).

[9]Except with respect to rights of third parties, the provisions relating to protection of copyright in the annexes to the Treaties of Peace with Hungary, Italy, and Rumania dated at Paris February 10, 1947, are bilateral in character. For example, the provisions of Annex IV A of the Treaty of Peace with Hungary, relate in general, to copyright relations between Hungary on the one part, and each of the other ratifying or adhering States, on the other part. Those provisions do not pertain to copyright relations between those other States, except for third party rights (see also footnotes 13 and 19). Annex IV of the Treaty of Peace with Bulgaria dated at Paris February 10, 1947 (61 Stat. 1915; TIAS 1650) contains similar provisions; however, there are no general copyright relations between the United States and Bulgaria.

[10]The proclamation of October 21, 1954 affirms the existence of copyright relations with India after August 15, 1947 (the effective date of the Indian Independence Act), as before that date (see footnote 1).

[11]The Department of State has determined that the entry into force on April 18, 1949 of the Republic of Ireland Act had no effect upon the proclamation of September 28, 1929 regarding the Irish Free State (Eire). Copyright relations with Ireland are therefore governed by that proclamation (see also footnote 1).

[12]The proclamations of March 10, 1944 and May 26, 1950 regarding Great Britain and possessions, also specifically refer to Palestine, excluding Trans-Jordan.

[13]The exchanges of notes between the United States and Italy, on the basis of which the proclamations of October 31, 1892 and May 1, 1915 were issued, were the subject of a note delivered on March 12, 1948 to the Italian Foreign Office by the American Embassy at Rome with respect to prewar bilateral treaties and other international agreements which the United States desired to keep in force or revive pursuant to Article 44 of the Treaty of Peace with Italy. The note stated in part "that the Government of the United States of America wishes to include the reciprocal copyright arrangement between the United States and Italy effected pursuant to the exchange of notes signed at Washington October 28, 1892 and the exchange of notes signed at Washington September 2, 1914, February 12, March 4 and March 11, 1915, among the prewar bilateral treaties and other international agreements with Italy which the United States desires to keep in force or revive. Accordingly, it is understood that the aforementioned arrangement will continue in force and that the Government of each country will extend to the nationals of the other country treatment as favorable with respect to copyright as was contemplated at the time the arrangement was entered into by the two countries". (Department of State Bulletin, April 4, 1948, p. 455.)

[14]Treaty of Peace with Italy (Annex XV A) dated at Paris January 10, 1947 (TIAS 1648).

[15]Copyright Convention, signed at Tokyo November 10, 1905 (TS 450).

This convention is considered as having been abrogated on April 22, 1953, pursuant to the provisions of Article 7 of the Treaty of Peace with Japan signed at San Francisco September 8, 1951 (TIAS 2490), since it was not included in the notification which was given on behalf of the United States Government to the Japanese Government on April 22, 1953, indicating the prewar bilateral treaties or conventions which the United States wished to continue in force or revive.

[16]Convention between the United States and Japan for reciprocal protection of inventions, designs, trademarks and copyrights in China and other countries where either contracting party may exercise extraterritorial jurisdiction, signed at Washington May 19, 1908 (TS 507).

This convention is considered as having been abrogated on April 22, 1953, pursuant to the provisions of Article 7 of the Treaty of Peace with Japan signed at San Francisco September 8, 1951 (TIAS 2490), since it was not included in the notification which was given on behalf of the United States Government to the Japanese Government on April 22, 1953, indicating the prewar bilateral treaties or conventions which the United States wished to continue in force or revive.

[17]Treaty of Peace with Japan (Articles 12, 14 and 15) signed at San Francisco September 8, 1951 (TIAS 2490). (See also footnotes 15, 16 and 19.)

[16]The proclamation of November 10, 1933 extends benefits under the copyright law for a period of four years from the coming into force of the Treaty of Peace with Japan (TIAS 2490). That period expired April 28, 1956.

[17]Copyright Convention with Japan for reciprocal protection in Korea of inventions, designs, trademarks and copyrights signed at Washington May 19, 1906 (TS 506).

This convention is considered as having been abrogated on April 22, 1953, pursuant to the provisions of Article 7 of the Treaty of Peace with Japan signed at San Francisco September 8, 1951 (TIAS 2490), since it was not included in the notification which was given on behalf of the United States Government to the Japanese Government on April 22, 1953, indicating the prewar bilateral treaties or conventions which the United States wished to continue in force or revive.

[18]The Department of State has made no announcement as to the application of the proclamations of November 20, 1899, April 9, 1910 and February 26, 1923 to Indonesia since it acquired its new status.

[19]An instrument of accession was deposited by the Philippine Government August 19, 1955. In a communication received by the State Department January 17, 1956, UNESCO stated that by a note dated November 14, 1955, the Philippine Government informed the Director General that "the President of the * * * Philippines has directed the withdrawal of the * * * accession * * * to the Universal Copyright Convention prior to the date of November 19, 1955, at which time the Convention would become effective" for the Philippines. The Director General notified the Philippine Government that he "proposed to submit their communication to the States concerned, upon whom it is incumbent to declare what legal inference they intend to draw from it."

[20]In a note delivered February 26, 1948 to the Rumanian Minister for Foreign Affairs by the American Minister at Bucharest with respect to prewar bilateral treaties and other international agreements which the United States desired to keep in force or revive pursuant to Article 10 of the Treaty of Peace with Rumania (see footnotes 9 and 24), the following statement was made regarding the proclamation of May 14, 1928 and the exchange of notes on which it is based: "It shall be understood that the reciprocal copyright arrangement between the United States and Rumania effected pursuant to the exchange of notes signed at Bucharest May 13 and October 13, 1928 and at Washington May 12 and 19, 1928 and the proclamation issued May 14, 1928 by the President of the United States of America will continue in force." (Department of State Bulletin, March 14, 1948, p. 356).

[21]Treaty of Peace with Rumania, dated at Paris, February 10, 1947 (TIAS 1649).

[22]The proclamation of July 10, 1895, regarding Spain was based upon an arrangement between the United States and Spain effected by an exchange of notes signed at Washington July 6 and 15, 1895. An agreement restoring the arrangement of July 6 and 15, 1895 was effected by an exchange of notes signed at Madrid January 29 and November 18 and 26, 1902 (II Malloy 1710), following the Treaty of Peace between the United States and Spain signed at Paris December 10, 1898 (30 Stat. 1754; TS 343). The latter treaty also contains in Article XIII the following provisions: "The rights of property secured by copyrights and patents acquired by Spaniards in the Island of Cuba, and in Puerto Rico, the Philippines and other ceded territories, at the time of the exchange of ratifications of this treaty, shall continue to be respected. Spanish scientific, literary and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories, for the period of ten years, to be reckoned from the date of the exchange of ratifications of this treaty."

[23]Treaty of friendship, commerce and navigation, protocol and exchanges of notes, signed at Bangkok November 13, 1937 (Art. 9 of the Treaty) (TS 940). This treaty replaces the treaty of friendship, commerce and navigation between the United States and Thailand signed at Washington December 16, 1920 (TS 655), Article XII of which contains provisions relating to copyright protection. The treaty of amity and economic relations, with three exchanges of notes between the United States and Thailand signed at Bangkok May 29, 1966 (TIAS 6540) replaces the treaty of November 13, 1937. Article V.2 contains provisions relating to copyright.

Proc. No. 3792. Copyright Extension: Germany

Proc. No. 3792, July 12, 1967, 32 F.R. 10341, provided:

Whereas the President is authorized, in accordance with the conditions prescribed in Section 9 of Title 17 of the United States Code which includes the provisions of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended by the act of September 25, 1941, 55 Stat. 732, to grant an extension of time for fulfillment of the conditions and formalities prescribed by the copyright laws of the United States of America, with respect to works first produced or published outside the United States of America and subject to copyright or to renewal of copyright under the laws of the United States of America, by nationals of countries which accord substantially equal treatment to citizens of the United States of America; and

Whereas satisfactory official assurances have been received that, since April 15, 1892, citizens of the United States have been entitled to obtain copyright in Germany for their works on substantially the same basis as German citizens without the need of complying with any formalities, provided such works secured protection in the United States; and

Whereas, pursuant to Article 2 of the Law No. 8, Industrial, Literary and Artistic Property Rights of Foreign Nations and Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were, upon request made prior to October 3, 1950, restored to such United States nationals or their legal successors; and

Whereas, pursuant to Article 5 of the aforesaid law, any literary or artistic property right in Germany owned by a United States national at the commencement of or during the state of war between Germany and the United States of America was, upon request made prior to October 3, 1950, extended in term for a period corresponding to the inclusive time from the date of the commencement of the state of war, or such later date on which such right came in existence, to September 30, 1949; and

Whereas, by virtue of a proclamation by the President of the United States of America dated May 25, 1922, 42 Stat. 2271, German citizens are and have been entitled to the benefits of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended, including the benefits of Section 1(e) of the aforementioned Title 17 of the United States Code [section 1(e) of former Title 17]; and

Whereas, a letter of February 6, 1950, from the Chancellor of the Federal Republic of Germany to the Chairman of the Allied High Commission for Germany established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany and the United States of America:

Now, Therefore, I, Lyndon B. Johnson, President of the United States of America, by virtue of the authority vested in me by Section 9 of Title 17 of the United States Code [section 9 of former Title 17], do declare and proclaim:

(1) That, with respect to works first produced or published outside the United States of America: (a) where the work was subject to copyright under the laws of the United States of America on or after September 3, 1939, and on or before May 5, 1956, by an author or other owner who was then a German citizen; or (b) where the work was subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939, and on or before May 5, 1956, by an author or other person specified in Sections 24 and 25 of the aforesaid Title 17 [sections 24 and 25 of former Title 17], who was then a German citizen, there has existed during several years of the aforementioned period such disruption and suspension of facilities essential to compliance with conditions and formalities prescribed with respect to such works by the copyright law of the United States of America as to bring such works within the terms of Section 9(b) of the aforesaid Title 17 [section 9(b) of former Title 17]; and

(2) That, in view of the reciprocal treatment accorded to citizens of the United States by the Federal Re-

public of Germany, the time within which persons who are presently German citizens may comply with such conditions and formalities with respect to such works is hereby extended for one year after the date of this proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation. It shall also be understood that, as provided by Section 9(b) of Title 17, United States Code [section 9(b) of former Title 17], no liability shall attach under that title for lawful uses made or acts done prior to the effective date of this proclamation in connection with the above-described works, or with respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation or performance of any such works.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of July in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-second.

LYNDON B. JOHNSON.

PRESIDENTIAL PROCLAMATIONS ISSUED UNDER PREDECESSOR PROVISIONS

Section 104 of Pub. L. 94-553 provided that: "All proclamations issued by the President under section 1(e) or 9(b) of title 17 as it existed on December 31, 1977, or under previous copyright statutes of the United States, shall continue in force until terminated, suspended, or revised by the President."

§ 105. Subject matter of copyright: United States Government works

Copyright protection under this title is not available for any work of the United States Government, but the United States Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest, or otherwise.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2546.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 290e.

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through 118, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyrighted work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and

(5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2546.)

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Common law rights, see section 301 of this title.

Copyright as distinct from property in object copyrighted, see section 202 of this title.

Copyright not capital asset, see section 1221 of Title 26, Internal Revenue Code.

Duration of copyright, see section 301 et seq. of this title.

Fines and penalties for wilful infringement, see section 506 of this title.

Government publications as not copyrightable, see section 105 of this title.

Immoral and scandalous trade-marks, registrability, see section 1052 of Title 15, Commerce and Trade.

Jurisdiction of district courts of actions—

Arising under copyright laws, see section 1338 of Title 28, Judiciary and Judicial Procedure.

Founded on diversity of citizenship, see section 1332 of Title 28.

Preemption of other laws relating to exclusive rights within the general scope of copyright, see section 301 of this title.

Proclamation by President granting foreign authors copyright protection, see section 104 of this title.

Power of Congress to grant authors exclusive right to their writings, see Const. Art. 1, § 8, cl. 8.

Remedies for infringement of copyright, see sections 502, 503, 504, 505 of this title.

Renewal of copyright, see section 304 of this title.

Transfer of copyright, see sections 201 and 204 of this title.

Venue of action—

Arising under act of Congress relating to copyrights, see section 1400 of Title 28, Judiciary and Judicial Procedure.

Founded on diversity of citizenship jurisdiction, see section 1391 of Title 28.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107 to 110, 112 to 118, 201, 301, 501, 506, 602 of this title; title 2 section 170.

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of section 106, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2546.)

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

Remittance of statutory damages, see section 504 of this title.

Use of certain works in connection with noncommercial broadcasting, see section 118 of this title.

Use of material in conjunction with computers and similar information systems, see section 117 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 108, 117, 118, 501, 504 of this title.

§ 108. Limitations on exclusive rights: Reproduction by libraries and archives

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such copy or phonorecord, under the conditions specified by this section, if—

(1) the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) the collections of the library or archives are (i) open to the public, or (ii) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field; and

(3) the reproduction or distribution of the work includes a notice of copyright.

(b) The rights of reproduction and distribution under this section apply to a copy or phonorecord of an unpublished work duplicated in facsimile form solely for purposes of preservation and security or for deposit for research use in another library or archives of the type described by clause (2) of subsection (a), if the copy or phonorecord reproduced is currently in the collections of the library or archives.

(c) The right of reproduction under this section applies to a copy or phonorecord of a published work duplicated in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost, or stolen, if the library or archives has, after a reasonable effort, determined that an unused replacement cannot be obtained at a fair price.

(d) The rights of reproduction and distribution under this section apply to a copy, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, of no more than one article or other contribution to a copyrighted collection or periodical issue, or to a copy or phonorecord of a small part of any other copyrighted work, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(e) The rights of reproduction and distribution under this section apply to the entire work, or to a substantial part of it, made from the collection of a library or archives where the user makes his or her request or from that of another library or archives, if the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of the copyrighted work cannot be obtained at a fair price, if—

(1) the copy or phonorecord becomes the property of the user, and the library or archives has had no notice that the copy or phonorecord would be used for any purpose other than private study, scholarship, or research; and

(2) the library or archives displays prominently, at the place where orders are accepted, and includes on its order form, a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

(f) Nothing in this section—

(1) shall be construed to impose liability for copyright infringement upon a library or archives or its employees for the unsupervised use of reproducing equipment located on its premises: *Provided*, That such equipment displays a notice that the making of a copy may be subject to the copyright law;

(2) excuses a person who uses such reproducing equipment or who requests a copy or phonorecord under subsection (d) from liability for copyright infringement for any such act, or for any later use of such copy or phonorecord, if it exceeds fair use as provided by section 107;

(3) shall be construed to limit the reproduction and distribution by lending of a limited number of copies and excerpts by a library or archives of an audiovisual news program, subject to clauses (1), (2), and (3) of subsection (a); or

(4) in any way affects the right of fair use as provided by section 107, or any contractual obligations assumed at any time by the library or archives when it obtained a copy or phonorecord of a work in its collections.

(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee—

(1) is aware or has substantial reason to believe that it is engaging in the related or concerted reproduction or distribution of multiple copies or phonorecords of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one or more individuals or for separate use by the individual members of a group; or

(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d): *Provided*, That nothing in this clause prevents a library or archives from participating in interlibrary arrangements that do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work.

(h) The rights of reproduction and distribution under this section do not apply to a musical work, a pictorial, graphic or sculptural work, or a motion picture or other audiovisual work other than an audiovisual work dealing with news, except that no such limitation shall apply with respect to rights granted by subsections (b) and (c), or with respect to pictorial or graphic works published as illustrations, diagrams, or similar adjuncts to works of which copies are reproduced or distributed in accordance with subsections (d) and (e).

(i) Five years from the effective date of this Act, and at five-year intervals thereafter, the Register of Copyrights, after consulting with representatives of authors, book and periodical publishers, and other owners of copyrighted materials, and with representatives of library users and librarians, shall submit to the Congress a report setting forth the extent to which this section has achieved the intended statutory balancing of the rights of creators, and the needs of users. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2546.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (i), is Jan. 1, 1978.

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

Importation of copies or phonorecords by organization operated for scholarly, educational, or religious purposes and not for private gain, see section 602 of this title.

Reproduction and distribution of regularly scheduled newscasts or on-the-spot coverage of news event for research purposes by Librarian of Congress, see section 170 of Title 2, The Congress.

Use of material in conjunction with computers and similar information systems, see section 117 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501, 602 of this title; title 2 section 170.

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

(a) Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.

(b) Notwithstanding the provisions of section 106(5), the owner of a particular copy lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to display that copy publicly, either directly or by the projection of no more than one image at a time, to viewers present at the place where the copy is located.

(c) The privileges prescribed by subsections (a) and (b) do not, unless authorized by the copyright owner, extend to any person who has acquired possession of the copy or phonorecord from the copyright owner, by rental, lease, loan, or otherwise, without acquiring ownership of it.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2548.)

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501 of this title.

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made;

(2) performance of a nondramatic literary or musical work or display of a work, by or in the course of a transmission, if—

(A) the performance or display is a regular part of the systematic instructional activities of a governmental body or a nonprofit educational institution; and

(B) the performance or display is directly related and of material assistance to the teaching content of the transmission; and

(C) the transmission is made primarily for—

(i) reception in classrooms or similar places normally devoted to instruction, or

(ii) reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or similar places normally devoted to instruction, or

(iii) reception by officers or employees of governmental bodies as a part of their official duties or employment;

(3) performance of a nondramatic literary or musical work or of a dramatico-musical

work of a religious nature, or display of a work, in the course of services at a place of worship or other religious assembly;

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if—

(A) there is no direct or indirect admission charge; or

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of objection to the performance under the following conditions;

(i) the notice shall be in writing and signed by the copyright owner or such owner's duly authorized agent; and

(ii) the notice shall be served on the person responsible for the performance at least seven days before the date of the performance, and shall state the reasons for the objection; and

(iii) the notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation;

(5) communication of a transmission embodying a performance or display of a work by the public reception of the transmission on a single receiving apparatus of a kind commonly used in private homes, unless—

(A) a direct charge is made to see or hear the transmission; or

(B) the transmission thus received is further transmitted to the public;

(6) performance of a nondramatic musical work by a governmental body or a nonprofit agricultural or horticultural organization, in the course of an annual agricultural or horticultural fair or exhibition conducted by such body or organization; the exemption provided by this clause shall extend to any liability for copyright infringement that would otherwise be imposed on such body or organization, under doctrines of vicarious liability or related infringement, for a performance by a concessionnaire, business establishment, or other person at such fair or exhibition, but shall not excuse any such person from liability for the performance;

(7) performance of a nondramatic musical work by a vending establishment open to the public at large without any direct or indirect admission charge, where the sole purpose of the performance is to promote the retail sale of copies or phonorecords of the work, and the performance is not transmitted beyond the place where the establishment is located and is within the immediate area where the sale is occurring;

(8) performance of a nondramatic literary work, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, or deaf or other handicapped persons who are unable to hear the aural signals accompanying a transmission of visual signals, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of: (i) a governmental body; or (ii) a noncommercial educational broadcast station (as defined in section 397 of title 47); or (iii) a radio subcarrier authorization (as defined in 47 CFR 73.293–73.295 and 73.593–73.595); or (iv) a cable system (as defined in section 111(f)).

(9) performance on a single occasion of a dramatic literary work published at least ten years before the date of the performance, by or in the course of a transmission specifically designed for and primarily directed to blind or other handicapped persons who are unable to read normal printed material as a result of their handicap, if the performance is made without any purpose of direct or indirect commercial advantage and its transmission is made through the facilities of a radio subcarrier authorization referred to in clause (8)(iii), *Provided*, That the provisions of this clause shall not be applicable to more than one performance of the same work by the same performers or under the auspices of the same organization.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2549.)

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 111, 112, 117, 118, 501 of this title.

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) Certain secondary transmissions exempted

The secondary transmission of a primary transmission embodying a performance or display of a work is not an infringement of copyright if—

(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying, by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission, within the local service area of such station, to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission; or

(2) the secondary transmission is made solely for the purpose and under the conditions specified by clause (2) of section 110; or

(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission, and whose activities with respect to the secondary

transmission consist solely of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmissions; or

(4) the secondary transmission is not made by a cable system but is made by a governmental body, or other nonprofit organization, without any purpose of direct or indirect commercial advantage, and without charge to the recipients of the secondary transmission other than assessments necessary to defray the actual and reasonable costs of maintaining and operating the secondary transmission service.

(b) Secondary transmission of primary transmission to controlled group

Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public: *Provided, however*, That such secondary transmission is not actionable as an act of infringement if—

(1) the primary transmission is made by a broadcast station licensed by the Federal Communications Commission; and

(2) the carriage of the signals comprising the secondary transmission is required under the rules, regulations, or authorizations of the Federal Communications Commission; and

(3) the signal of the primary transmitter is not altered or changed in any way by the secondary transmitter.

(c) Secondary transmissions by cable systems

(1) Subject to the provisions of clauses (2), (3), and (4) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, in the following cases:

(A) where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations, or authorizations of the Federal Communications Commission; or

(B) where the cable system has not recorded the notice specified by subsection (d) and deposited the statement of account and royalty fee required by subsection (d).

(3) Notwithstanding the provisions of clause (1) of this subsection and subject to the provisions of subsection (e) of this section, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcements transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the cable system through changes, deletions, or additions, except for the alteration, deletion, or substitution of commercial advertisements performed by those engaged in television commercial advertising market research: *Provided*, That the research company has obtained the prior consent of the advertiser who has purchased the original commercial advertisement, the television station broadcasting that commercial advertisement, and the cable system performing the secondary transmission: *And provided further*, That such commercial alteration, deletion, or substitution is not performed for the purpose of deriving income from the sale of that commercial time.

(4) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and section 509, if (A) with respect to Canadian signals, the community of the cable system is located more than 150 miles from the United States-Canadian border and is also located south of the forty-second parallel of latitude, or (B) with respect to Mexican signals, the secondary transmission is made by a cable system which received the primary transmission by means other than direct interception of a free space radio wave emitted by such broadcast television station, unless prior to April 15, 1976, such cable system was actually

carrying, or was specifically authorized to carry, the signal of such foreign station on the system pursuant to the rules, regulations, or authorizations of the Federal Communications Commission.

(d) Compulsory license for secondary transmissions by cable systems

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall, at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after the enactment of this Act, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system, and thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause.

(2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), prescribe by regulation—

(A) a statement of account, covering the six months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers, the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), from time to time prescribe by regulation. Such statement shall also include a special statement of account covering any nonnetwork television programming that was carried by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage; and

(B) except in the case of a cable system whose royalty is specified in subclause (C) or (D), a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

(i) 0.675 of 1 per centum of such gross receipts for the privilege of further transmitting any nonnetwork programming of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to paragraphs (ii) through (iv);

(ii) 0.675 of 1 per centum of such gross receipts for the first distant signal equivalent;

(iii) 0.425 of 1 per centum of such gross receipts for each of the second, third, and fourth distant signal equivalents;

(iv) 0.2 of 1 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter; and

in computing the amounts payable under paragraphs (ii) through (iv), above, any fraction of a distant signal equivalent shall be computed at its fractional value and, in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located without the local service area of such primary transmitter; and

(C) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters total $80,000 or less, gross receipts of the cable system for the purpose of this subclause shall be computed by subtracting from such actual gross receipts the amount by which $80,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $3,000. The royalty fee payable under this subclause shall be 0.5 of 1 per centum, regardless of the number of distant signal equivalents, if any; and

(D) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters, are more than $80,000 but less than $160,000, the royalty fee payable under this subclause shall be (i) 0.5 of 1 per centum of any gross receipts up to $80,000; and (ii) 1 per centum of any gross receipts in excess of $80,000 but less than $160,000, regardless of the number of distant signal equivalents, if any.

(3) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall

deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on a semiannual basis, a compilation of all statements of account covering the relevant six-month period provided by clause (2) of this subsection.

(4) The royalty fees thus deposited shall, in accordance with the procedures provided by clause (5), be distributed to those among the following copyright owners who claim that their works were the subject of secondary transmissions by cable systems during the relevant semiannual period:

(A) any such owner whose work was included in a secondary transmission made by a cable system of a nonnetwork television program in whole or in part beyond the local service area of the primary transmitter; and

(B) any such owner whose work was included in a secondary transmission identified in a special statement of account deposited under clause (2)(A); and

(C) any such owner whose work was included in nonnetwork programing consisting exclusively of aural signals carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programs.

(5) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) During the month of July in each year, every person claiming to be entitled to compulsory license fees for secondary transmissions shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Notwithstanding any provisions of the antitrust laws, for purposes of this clause any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(B) After the first day of August of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(e) Nonsimultaneous secondary transmissions by cable systems

(1) Notwithstanding those provisions of the second paragraph of subsection (f) relating to nonsimultaneous secondary transmissions by a cable system, any such transmissions are actionable as an act of infringement under section 501, and are fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, unless—

(A) the program on the videotape is transmitted no more than one time to the cable system's subscribers; and

(B) the copyrighted program, episode, or motion picture videotape, including the commercials contained within such program, episode, or picture, is transmitted without deletion or editing; and

(C) an owner or officer of the cable system (i) prevents the duplication of the videotape while in the possession of the system, (ii) prevents unauthorized duplication while in the possession of the facility making the videotape for the system if the system owns or controls the facility, or takes reasonable precautions to prevent such duplication if it does not own or control the facility, (iii) takes adequate precautions to prevent duplication while the tape is being transported, and (iv) subject to clause (2), erases or destroys, or causes the erasure or destruction of, the videotape; and

(D) within forty-five days after the end of each calendar quarter, an owner or officer of the cable system executes an affidavit attesting (i) to the steps and precautions taken to prevent duplication of the videotape, and (ii) subject to clause (2), to the erasure or destruction of all videotapes made or used during such quarter; and

(E) such owner or officer places or causes each such affidavit, and affidavits received pursuant to clause (2)(C), to be placed in a file, open to public inspection, at such system's main office in the community where the transmission is made or in the nearest community where such system maintains an office; and

(F) the nonsimultaneous transmission is one that the cable system would be authorized to transmit under the rules, regulations, and authorizations of the Federal Communications Commission in effect at the time of the nonsimultaneous transmission if the transmission had been made simultaneously, except that this subclause shall not apply to inadvertent or accidental transmissions.

(2) If a cable system transfers to any person a videotape of a program nonsimultaneously transmitted by it, such transfer is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, except that, pursuant to a written, nonprofit con-

tract providing for the equitable sharing of the costs of such videotape and its transfer, a videotape nonsimultaneously transmitted by it, in accordance with clause (1), may be transferred by one cable system in Alaska to another system in Alaska, by one cable system in Hawaii permitted to make such nonsimultaneous transmissions to another such cable system in Hawaii, or by one cable system in Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands, to another cable system in any of those three territories, if—

(A) each such contract is available for public inspection in the offices of the cable systems involved, and a copy of such contract is filed, within thirty days after such contract is entered into, with the Copyright Office (which Office shall make each such contract available for public inspection); and

(B) the cable system to which the videotape is transferred complies with clause (1)(A), (B), (C)(i), (iii), and (iv), and (D) through (F); and

(C) such system provides a copy of the affidavit required to be made in accordance with clause (1)(D) to each cable system making a previous nonsimultaneous transmission of the same videotape.

(3) This subsection shall not be construed to supersede the exclusivity protection provisions of any existing agreement, or any such agreement hereafter entered into, between a cable system and a television broadcast station in the area in which the cable system is located, or a network with which such station is affiliated.

(4) As used in this subsection, the term "videotape", and each of its variant forms, means the reproduction of the images and sounds of a program or programs broadcast by a television broadcast station licensed by the Federal Communications Commission, regardless of the nature of the material objects, such as tapes or films, in which the reproduction is embodied.

(f) Definitions

As used in this section, the following terms and their variant forms mean the following:

A "primary transmission" is a transmission made to the public by the transmitting facility whose signals are being received and further transmitted by the secondary transmission service, regardless of where or when the performance or display was first transmitted.

A "secondary transmission" is the further transmitting of a primary transmission simultaneously with the primary transmission, or nonsimultaneously with the primary transmission if by a "cable system" not located in whole or in part within the boundary of the forty-eight contiguous States, Hawaii, or Puerto Rico: *Provided, however,* That a nonsimultaneous further transmission by a cable system located in Hawaii of a primary transmission shall be deemed to be a secondary transmission if the carriage of the television broadcast signal comprising such further transmission is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.

A "cable system" is a facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. For purposes of determining the royalty fee under subsection (d)(2), two or more cable systems in contiguous communities under common ownership or control or operating from one headend shall be considered as one system.

The "local service area of a primary transmitter", in the case of a television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations. The "local service area of a primary transmitter", in the case of a radio broadcast station, comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.

A "distant signal equivalent" is the value assigned to the secondary transmission of any nonnetwork television programing carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programing. It is computed by assigning a value of one to each independent station and a value of one-quarter to each network station and noncommercial educational station for the nonnetwork programing so carried pursuant to the rules, regulations, and authorizations of the Federal Communications Commission. The foregoing values for independent, network, and noncommercial educational stations are subject, however, to the following exceptions and limitations. Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of enactment of this Act permit a cable system, at its election, to effect such deletion and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program; where the rules, regulations, or authoriza-

tions of the Federal Communications Commission in effect on the date of enactment of this Act permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year. In the case of a station carried pursuant to the late-night or specialty programing rules of the Federal Communications Commission, or a station carried on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth above, as the case may be, shall be multiplied by a fraction which is equal to the ratio of the broadcast hours of such station carried by the cable system to the total broadcast hours of the station.

A "network station" is a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programing supplied by such networks for a substantial part of that station's typical broadcast day.

An "independent station" is a commercial television broadcast station other than a network station.

A "noncommercial educational station" is a television station that is a noncommercial educational broadcast station as defined in section 397 of title 47.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2550.)

REFERENCES IN TEXT

"After the enactment of this Act" and "date of enactment of this Act", referred to in subsecs. (d)(1) and (f), respectively, mean Oct. 19, 1976.

The antitrust laws, referred to in subsec. (d)(5)(A), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Effective date of final determinations concerning proceedings involving distribution of royalty fees, see section 809 of this title.

Exclusive rights in copyrighted works, see section 106 of this title.

Institution and conclusion of proceedings—

Distribution of royalty fees, see section 804 of this title.

Owner or users of copyrighted work whose royalty rates are specified by this section, see section 804 of this title.

Remedies for alteration of programing by cable systems, see section 510 of this title.

Royalty rate and fees—

Determination concerning adjustment of copyright royalty rate, see section 801 of this title.

Distribution of copyright royalty fees, see section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 110, 117, 501, 510, 801, 804, 809 of this title.

§ 112. Limitations on exclusive rights: Ephemeral recordings

(a) Notwithstanding the provisions of section 106, and except in the case of a motion picture or other audiovisual work, it is not an infringement of copyright for a transmitting organization entitled to transmit to the public a performance or display of a work, under a license or transfer of the copyright or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than one copy or phonorecord of a particular transmission program embodying the performance or display, if—

(1) the copy or phonorecord is retained and used solely by the transmitting organization that made it, and no further copies or phonorecords are reproduced from it; and

(2) the copy or phonorecord is used solely for the transmitting organization's own transmissions within its local service area, or for purposes of archival preservation or security; and

(3) unless preserved exclusively for archival purposes, the copy or phonorecord is destroyed within six months from the date the transmission program was first transmitted to the public.

(b) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance or display of a work, under section 110(2) or under the limitations on exclusive rights in sound recordings specified by section 114(a), to make no more than thirty copies or phonorecords of a particular transmission program embodying the performance or display, if—

(1) no further copies or phonorecords are reproduced from the copies or phonorecords made under this clause; and

(2) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are destroyed within seven years from the date the transmission program was first transmitted to the public.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization to make for distribution no more than one copy or phonorecord, for each transmitting organization specified in clause (2) of this subsection, of a particular transmission program embodying a performance of a nondramatic musical work of a religious nature, or of a sound recording of such a musical work, if—

(1) there is no direct or indirect charge for making or distributing any such copies or phonorecords; and

(2) none of such copies or phonorecords is used for any performance other than a single

transmission to the public by a transmitting organization entitled to transmit to the public a performance of the work under a license or transfer of the copyright; and

(3) except for one copy or phonorecord that may be preserved exclusively for archival purposes, the copies or phonorecords are all destroyed within one year from the date the transmission program was first transmitted to the public.

(d) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a governmental body or other nonprofit organization entitled to transmit a performance of a work under section 110(8) to make no more than ten copies or phonorecords embodying the performance, or to permit the use of any such copy or phonorecord by any governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8), if—

(1) any such copy or phonorecord is retained and used solely by the organization that made it, or by a governmental body or nonprofit organization entitled to transmit a performance of a work under section 110(8), and no further copies or phonorecords are reproduced from it; and

(2) any such copy or phonorecord is used solely for transmissions authorized under section 110(8), or for purposes of archival preservation or security; and

(3) the governmental body or nonprofit organization permitting any use of any such copy or phonorecord by any governmental body or nonprofit organization under this subsection does not make any charge for such use.

(e) The transmission program embodied in a copy or phonorecord made under this section is not subject to protection as a derivative work under this title except with the express consent of the owners of copyright in the preexisting works employed in the program.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2558.)

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Exclusive rights in copyrighted work, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501 of this title.

§ 113. Scope of exclusive rights in pictorial, graphic, and sculptural works

(a) Subject to the provisions of subsections (b) and (c) of this section, the exclusive right to reproduce a copyrighted pictorial, graphic, or sculptural work in copies under section 106 includes the right to reproduce the work in or on any kind of article, whether useful or otherwise.

(b) This title does not afford, to the owner of copyright in a work that portrays a useful article as such, any greater or lesser rights with respect to the making, distribution, or display of the useful article so portrayed than those afforded to such works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) In the case of a work lawfully reproduced in useful articles that have been offered for sale or other distribution to the public, copyright does not include any right to prevent the making, distribution, or display of pictures or photographs of such articles in connection with advertisements or commentaries related to the distribution or display of such articles, or in connection with news reports.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2560.)

CROSS REFERENCES

Exclusive rights in copyrighted work, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501 of this title.

§ 114. Scope of exclusive rights in sound recordings

(a) The exclusive rights of the owner of copyright in a sound recording are limited to the rights specified by clauses (1), (2), and (3) of section 106, and do not include any right of performance under section 106(4).

(b) The exclusive right of the owner of copyright in a sound recording under clause (1) of section 106 is limited to the right to duplicate the sound recording in the form of phonorecords, or of copies of motion pictures and other audiovisual works, that directly or indirectly recapture the actual sounds fixed in the recording. The exclusive right of the owner of copyright in a sound recording under clause (2) of section 106 is limited to the right to prepare a derivative work in which the actual sounds fixed in the sound recording are rearranged, remixed, or otherwise altered in sequence or quality. The exclusive rights of the owner of copyright in a sound recording under clauses (1) and (2) of section 106 do not extend to the making or duplication of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording. The exclusive rights of the owner of copyright in a sound recording under clauses (1), (2), and (3) of section 106 do not apply to sound recordings included in educational television and radio programs (as defined in section 397 of title 47) distributed or transmitted by or through public broadcasting entities (as defined by section 118(g)): *Provided,* That copies or phonorecords of said programs are not commercially distributed by or through public broadcasting entities to the general public.

(c) This section does not limit or impair the exclusive right to perform publicly, by means of a phonorecord, any of the works specified by section 106(4).

(d) On January 3, 1978, the Register of Copyrights, after consulting with representatives of owners of copyrighted materials, representatives of the broadcasting, recording, motion picture, entertainment industries, and arts organi-

zations, representatives of organized labor and performers of copyrighted materials, shall submit to the Congress a report setting forth recommendations as to whether this section should be amended to provide for performers and copyright owners of copyrighted material any performance rights in such material. The report should describe the status of such rights in foreign countries, the views of major interested parties, and specific legislative or other recommendations, if any.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2560.)

CROSS REFERENCES

Ephemeral recordings, see section 112 of this title.
Exclusive rights in copyrighted work, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 112, 117, 501 of this title.

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) Availability and scope of compulsory license

(1) When phonorecords of a nondramatic musical work have been distributed to the public in the United States under the authority of the copyright owner, any other person may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work. A person may obtain a compulsory license only if his or her primary purpose in making phonorecords is to distribute them to the public for private use. A person may not obtain a compulsory license for use of the work in the making of phonorecords duplicating a sound recording fixed by another, unless: (i) such sound recording was fixed lawfully; and (ii) the making of the phonorecords was authorized by the owner of copyright in the sound recording or, if the sound recording was fixed before February 15, 1972, by any person who fixed the sound recording pursuant to an express license from the owner of the copyright in the musical work or pursuant to a valid compulsory license for use of such work in a sound recording.

(2) A compulsory license includes the privilege of making a musical arrangement of the work to the extent necessary to conform it to the style or manner of interpretation of the performance involved, but the arrangement shall not change the basic melody or fundamental character of the work, and shall not be subject to protection as a derivative work under this title, except with the express consent of the copyright owner.

(b) Notice of intention to obtain compulsory license

(1) Any person who wishes to obtain a compulsory license under this section shall, before or within thirty days after making, and before distributing any phonorecords of the work, serve notice of intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served, it shall be sufficient to file the notice of intention in the Copyright Office. The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(2) Failure to serve or file the notice required by clause (1) forecloses the possibility of a compulsory license and, in the absence of a negotiated license, renders the making and distribution of phonorecords actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(c) Royalty payable under compulsory license

(1) To be entitled to receive royalties under a compulsory license, the copyright owner must be identified in the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords made and distributed after being so identified, but is not entitled to recover for any phonorecords previously made and distributed.

(2) Except as provided by clause (1), the royalty under a compulsory license shall be payable for every phonorecord made and distributed in accordance with the license. For this purpose, a phonorecord is considered "distributed" if the person exercising the compulsory license has voluntarily and permanently parted with its possession. With respect to each work embodied in the phonorecord, the royalty shall be either two and three-fourths cents, or one-half of one cent per minute of playing time or fraction thereof, whichever amount is larger.

(3) Royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under this section. The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.

(4) If the copyright owner does not receive the monthly payment and the monthly and annual statements of account when due, the owner may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders either the making or the distribution, or both, of all phonorecords for which the royalty has not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2561.)

PERSONS OPERATING UNDER PREDECESSOR COMPULSORY LICENSING PROVISIONS

Section 106 of Pub. L. 94-553 provided that: "In any case where, before January 1, 1978, a person has lawfully made parts of instruments serving to reproduce mechanically a copyrighted work under the compulsory license provisions of section 1(e) of title 17 as it existed on December 31, 1977, such person may continue to make and distribute such parts embodying the same mechanical reproduction without obtaining a new compulsory license under the terms of section 115 of title 17 as amended by the first section of this Act [this section]. However, such parts made on or after January 1, 1978, constitute phonorecords and are otherwise subject to the provisions of said section 115 [this section]."

CROSS REFERENCES

Action for infringement of copyright, see section 501 of this title.

Determinations concerning adjustment of reasonable copyright royalty rates by Copyright Royalty Tribunal, see section 801 of this title.

Exclusive rights in copyrighted work, see section 106 of this title.

Fee for notice of intention to make phonorecords, see section 708 of this title.

Institution and conclusion of proceedings concerning adjustment of royalty rates as provided in this section, see section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501, 708, 801, 804 of this title.

§ 116. Scope of exclusive rights in nondramatic musical works: Public performances by means of coin-operated phonorecord players

(a) Limitation on exclusive right

In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited as follows:

(1) The proprietor of the establishment in which the public performance takes place is not liable for infringement with respect to such public performance unless—

(A) such proprietor is the operator of the phonorecord player; or

(B) such proprietor refuses or fails, within one month after receipt by registered or certified mail of a request, at a time during which the certificate required by clause (1)(C) of subsection (b) is not affixed to the phonorecord player, by the copyright owner, to make full disclosure, by registered or certified mail, of the identity of the operator of the phonorecord player.

(2) The operator of the coin-operated phonorecord player may obtain a compulsory license to perform the work publicly on that phonorecord player by filing the application, affixing the certificate, and paying the royalties provided by subsection (b).

(b) Recordation of coin-operated phonorecord player, affixation of certificate, and royalty payable under compulsory license

(1) Any operator who wishes to obtain a compulsory license for the public performance of works on a coin-operated phonorecord player shall fulfill the following requirements:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, the operator shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by such operator under subclause (A) of this clause with respect to that phonorecord player.

(2) Failure to file the application, to affix the certificate, or to pay the royalty required by clause (1) of this subsection renders the public performance actionable as an act of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506 and 509.

(c) Distribution of royalties

(1) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on an annual basis, a detailed statement of account covering all fees received for the relevant period provided by subsection (b).

(2) During the month of January in each year, every person claiming to be entitled to compulsory license fees under this section for performances during the preceding twelve-

month period shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. Such claim shall include an agreement to accept as final, except as provided in section 810 of this title, the determination of the Copyright Royalty Tribunal in any controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1) of this section to which the claimant is a party. Notwithstanding any provisions of the antitrust laws, for purposes of this subsection any claimants may agree among themselves as to the proportionate division of compulsory licensing fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

(3) After the first day of October of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees deposited under subclause (A) of subsection (b)(1). If the Tribunal determines that no such controversy exists, it shall, after deducting its reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If it finds that such a controversy exists, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

(4) The fees to be distributed shall be divided as follows:

(A) to every copyright owner not affiliated with a performing rights society, the pro rata share of the fees to be distributed to which such copyright owner proves entitlement.

(B) to the performing rights societies, the remainder of the fees to be distributed in such pro rata shares as they shall by agreement stipulate among themselves, or, if they fail to agree, the pro rata share to which such performing rights societies prove entitlement.

(C) during the pendency of any proceeding under this section, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

(5) The Copyright Royalty Tribunal shall promulgate regulations under which persons who can reasonably be expected to have claims may, during the year in which performances take place, without expense to or harassment of operators or proprietors of establishments in which phonorecord players are located, have such access to such establishments and to the phonorecord players located therein and such opportunity to obtain information with respect thereto as may be reasonably necessary to determine, by sampling procedures or otherwise, the proportion of contribution of the musical works of each such person to the earnings of the phonorecord players for which fees shall have been deposited. Any person who alleges that he or she has been denied the access permitted under the regulations prescribed by the Copyright Royalty Tribunal may bring an action in the United States District Court for the District of Columbia for the cancellation of the compulsory license of the phonorecord player to which such access has been denied, and the court shall have the power to declare the compulsory license thereof invalid from the date of issue thereof.

(d) Criminal penalties

Any person who knowingly makes a false representation of a material fact in an application filed under clause (1)(A) of subsection (b), or who knowingly alters a certificate issued under clause (1)(B) of subsection (b) or knowingly affixes such a certificate to a phonorecord player other than the one it covers, shall be fined not more than $2,500.

(e) Definitions

As used in this section, the following terms and their variant forms mean the following:

(1) A "coin-operated phonorecord player" is a machine or device that—

(A) is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of coins, currency, tokens, or other monetary units or their equivalent;

(B) is located in an establishment making no direct or indirect charge for admission;

(C) is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An "operator" is any person who, alone or jointly with others:

(A) owns a coin-operated phonorecord player; or

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.

(3) A "performing rights society" is an association or corporation that licenses the public performance of nondramatic musical works on behalf of the copyright owners, such as the American Society of Composers, Authors and Publishers, Broadcast Music, Inc., and SESAC, Inc.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2562.)

References in Text

The antitrust laws, referred to in subsec. (c)(2), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

Cross References

Action for infringement of copyright, see section 501 of this title.

Determinations concerning adjustment of reasonable copyright royalty rates by Copyright Royalty Tribunal, see section 801 of this title.

Effective date of final determinations concerning proceedings involving distribution of royalty fees under this section, see section 809 of this title.

Exclusive rights in copyrighted work, see section 106 of this title.

Institution and conclusion of proceedings concerning adjustment of royalty rates as provided in this section, see section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 117, 501, 801, 804, 809 of this title.

§ 117. Scope of exclusive rights: Use in conjunction with computers and similar information systems

Notwithstanding the provisions of sections 106 through 116 and 118, this title does not afford to the owner of copyright in a work any greater or lesser rights with respect to the use of the work in conjunction with automatic systems capable of storing, processing, retrieving, or transferring information, or in conjunction with any similar device, machine, or process, than those afforded to works under the law, whether title 17 or the common law or statutes of a State, in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2565.)

CROSS REFERENCES

Exclusive rights in copyrighted work, see section 106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 501 of this title.

§ 118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting

(a) The exclusive rights provided by section 106 shall, with respect to the works specified by subsection (b) and the activities specified by subsection (d), be subject to the conditions and limitations prescribed by this section.

(b) Not later than thirty days after the Copyright Royalty Tribunal has been constituted in accordance with section 802, the Chairman of the Tribunal shall cause notice to be published in the Federal Register of the initiation of proceedings for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by subsection (d) with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works during a period beginning as provided in clause (3) of this subsection and ending on December 31, 1982. Copyright owners and public broadcasting entities shall negotiate in good faith and cooperate fully with the Tribunal in an effort to reach reasonable and expeditious results. Notwithstanding any provision of the antitrust laws, any owners of copyright in works specified by this subsection and any public broadcasting entities, respectively, may negotiate and agree upon the terms and rates of royalty payments and the proportionate division of fees paid among various copyright owners, and may designate common agents to negotiate, agree to, pay, or receive payments.

(1) Any owner of copyright in a work specified in this subsection or any public broadcasting entity may, within one hundred and twenty days after publication of the notice specified in this subsection, submit to the Copyright Royalty Tribunal proposed licenses covering such activities with respect to such works. The Copyright Royalty Tribunal shall proceed on the basis of the proposals submitted to it as well as any other relevant information. The Copyright Royalty Tribunal shall permit any interested party to submit information relevant to such proceedings.

(2) License agreements, voluntarily negotiated at any time between one or more copyright owners and one or more public broadcasting entities shall be given effect in lieu of any determination by the Tribunal: *Provided*, That copies of such agreements are filed in the Copyright Office within thirty days of execution in accordance with regulations that the Register of Copyrights shall prescribe.

(3) Within six months, but not earlier than one hundred and twenty days, from the date of publication of the notice specified in this subsection the Copyright Royalty Tribunal shall make a determination and publish in the Federal Register a schedule of rates and terms which, subject to clause (2) of this subsection, shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether or not such copyright owners and public broadcasting entities have submitted proposals to the Tribunal. In establishing such rates and terms the Copyright Royalty Tribunal may consider the rates for comparable circumstances under voluntary license agreements negotiated as provided in clause (2) of this subsection. The Copyright Royalty Tribunal shall also establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept by public broadcasting entities.

(4) With respect to the period beginning on the effective date of this title and ending on the date of publication of such rates and terms, this title shall not afford to owners of copyright or public broadcasting entities any greater or lesser rights with respect to the activities specified in subsection (d) as applied to works specified in this subsection than those afforded under the law in effect on December 31, 1977, as held applicable and construed by a court in an action brought under this title.

(c) The initial procedure specified in subsection (b) shall be repeated and concluded between June 30 and December 31, 1982, and at five-year intervals thereafter, in accordance with regulations that the Copyright Royalty Tribunal shall prescribe.

(d) Subject to the transitional provisions of subsection (b)(4), and to the terms of any voluntary license agreements that have been negotiated as provided by subsection (b)(2), a public broadcasting entity may, upon compliance with the provisions of this section, including the rates and terms established by the Copyright

Royalty Tribunal under subsection (b)(3), engage in the following activities with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works:

(1) performance or display of a work by or in the course of a transmission made by a noncommercial educational broadcast station referred to in subsection (g); and

(2) production of a transmission program, reproduction of copies or phonorecords of such a transmission program, and distribution of such copies or phonorecords, where such production, reproduction, or distribution is made by a nonprofit institution or organization solely for the purpose of transmissions specified in clause (1); and

(3) the making of reproductions by a governmental body or a nonprofit institution of a transmission program simultaneously with its transmission as specified in clause (1), and the performance or display of the contents of such program under the conditions specified by clause (1) of section 110, but only if the reproductions are used for performances or displays for a period of no more than seven days from the date of the transmission specified in clause (1), and are destroyed before or at the end of such period. No person supplying, in accordance with clause (2), a reproduction of a transmission program to governmental bodies or nonprofit institutions under this clause shall have any liability as a result of failure of such body or institution to destroy such reproduction: *Provided*, That it shall have notified such body or institution of the requirement for such destruction pursuant to this clause: *And provided further*, That if such body or institution itself fails to destroy such reproduction it shall be deemed to have infringed.

(e) Except as expressly provided in this subsection, this section shall have no applicability to works other than those specified in subsection (b).

(1) Owners of copyright in nondramatic literary works and public broadcasting entities may, during the course of voluntary negotiations, agree among themselves, respectively, as to the terms and rates of royalty payments without liability under the antitrust laws. Any such terms and rates of royalty payments shall be effective upon filing in the Copyright Office, in accordance with regulations that the Register of Copyrights shall prescribe.

(2) On January 3, 1980, the Register of Copyrights, after consulting with authors and other owners of copyright in nondramatic literary works and their representatives, and with public broadcasting entities and their representatives, shall submit to the Congress a report setting forth the extent to which voluntary licensing arrangements have been reached with respect to the use of nondramatic literary works by such broadcast stations. The report should also describe any problems that may have arisen, and present legislative or other recommendations, if warranted.

(f) Nothing in this section shall be construed to permit, beyond the limits of fair use as provided by section 107, the unauthorized dramatization of a nondramatic musical work, the production of a transmission program drawn to any substantial extent from a published compilation of pictorial, graphic, or sculptural works, or the unauthorized use of any portion of an audiovisual work.

(g) As used in this section, the term "public broadcasting entity" means a noncommercial educational broadcast station as defined in section 397 of title 47 and any nonprofit institution or organization engaged in the activities described in clause (2) of subsection (d).

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2565.)

REFERENCES IN TEXT

The antitrust laws, referred to in subsecs. (b) and (e)(1), are classified generally to chapter 1 (§ 1 et seq.) of Title 15, Commerce and Trade.

The effective date of this title, referred to in subsec. (b)(4), is Jan. 1, 1978.

EFFECTIVE DATE

Section effective Oct. 19, 1976, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of this title.

CROSS REFERENCES

Determinations as to reasonable terms and rates of royalty payments by Copyright Royalty Tribunal, see section 801 of this title.

Exclusive rights in copyrighted work, see section 106 of this title.

Institution and conclusion of proceedings concerning the determination of reasonable terms and rates of royalty payments, see section 804 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 114, 117, 501, 504, 801, 804 of this title.

CHAPTER 2—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.
201. Ownership of copyright.
202. Ownership of copyright as distinct from ownership of material object.
203. Termination of transfers and licenses granted by the author.
204. Execution of transfers of copyright ownership.
205. Recordation of transfers and other documents.

§ 201. Ownership of copyright

(a) Initial ownership

Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a joint work are coowners of copyright in the work.

(b) Works made for hire

In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) Contributions to collective works

Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence

of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) Transfer of ownership

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by section 106, may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) Involuntary transfer

When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by that individual author, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title, except as provided under title 11.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2568, and amended Pub. L. 95–598, title III, § 313, Nov. 6, 1978, 92 Stat. 2676.)

AMENDMENTS

1978—Subsec. (e). Pub. L. 95–598 inserted ", except as provided under title 11".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598 set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

CROSS REFERENCES

Copyright not capital asset, see section 1221 of Title 26, Internal Revenue Code.

Ownership by Government, see section 105 of this title.

§ 202. Ownership of copyright as distinct from ownership of material object

Ownership of a copyright, or of any of the exclusive rights under a copyright, is distinct from ownership of any material object in which the work is embodied. Transfer of ownership of any material object, including the copy or phonorecord in which the work is first fixed, does not of itself convey any rights in the copyrighted work embodied in the object; nor, in the absence of an agreement, does transfer of ownership of a copyright or of any exclusive rights under a copyright convey property rights in any material object.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2568.)

§ 203. Termination of transfers and licenses granted by the author

(a) Conditions for termination

In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by one author, termination of the grant may be effected by that author or, if the author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest. In the case of a grant executed by two or more authors of a joint work, termination of the grant may be effected by a majority of the authors who executed it; if any of such authors is dead, the termination interest of any such author may be exercised as a unit by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant; or, if the grant covers the right of publication of the work, the period begins at the end of thirty-five years from the date of publication of the work under the grant or at the end of forty years from the date of execution of the grant, whichever term ends earlier.

(4) The termination shall be effected by serving an advance notice in writing, signed by the number and proportion of owners of termination interests required under clauses (1) and (2) of this subsection, or by their duly authorized agents, upon the grantee or the grantee's successor in title.

(A) The notice shall state the effective date of the termination, which shall fall

within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(b) Effect of termination

Upon the effective date of termination, all rights under this title that were covered by the terminated grants revert to the author, authors, and other persons owning termination interests under clauses (1) and (2) of subsection (a), including those owners who did not join in signing the notice of termination under clause (4) of subsection (a), but with the following limitations:

(1) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(2) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of subsection (a). The rights vest in the author, authors, and other persons named in, and in the proportionate shares provided by, clauses (1) and (2) of subsection (a).

(3) Subject to the provisions of clause (4) of this subsection, a further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under clause (2) of this subsection, as are required to terminate the grant under clauses (1) and (2) of subsection (a). Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under clause (2) of this subsection, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this clause.

(4) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the persons provided by clause (3) of this subsection and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of subsection (a).

(5) Termination of a grant under this section affects only those rights covered by the grants that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(6) Unless and until termination is effected under this section, the grant, if it does not provide otherwise, continues in effect for the term of copyright provided by this title.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2569.)

§ 204. Execution of transfers of copyright ownership

(a) A transfer of copyright ownership, other than by operation of law, is not valid unless an instrument of conveyance, or a note or memorandum of the transfer, is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent.

(b) A certificate of acknowledgement is not required for the validity of a transfer, but is prima facie evidence of the execution of the transfer if—

(1) in the case of a transfer executed in the United States, the certificate is issued by a person authorized to administer oaths within the United States; or

(2) in the case of a transfer executed in a foreign country, the certificate is issued by a diplomatic or consular officer of the United States, or by a person authorized to administer oaths whose authority is proved by a certificate of such an officer.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2570.)

§ 205. Recordation of transfers and other documents

(a) Conditions for recordation

Any transfer of copyright ownership or other document pertaining to a copyright may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document.

(b) Certificate of recordation

The Register of Copyrights shall, upon receipt of a document as provided by subsection (a) and of the fee provided by section 708, record the document and return it with a certificate of recordation.

(c) Recordation as constructive notice

Recordation of a document in the Copyright Office gives all persons constructive notice of the facts stated in the recorded document, but only if—

(1) the document, or material attached to it, specifically identifies the work to which it pertains so that, after the document is indexed by the Register of Copyrights, it would be revealed by a reasonable search under the title or registration number of the work; and

(2) registration has been made for the work.

(d) Recordation as prerequisite to infringement suit

No person claiming by virtue of a transfer to be the owner of copyright or of any exclusive right under a copyright is entitled to institute

an infringement action under this title until the instrument of transfer under which such person claims has been recorded in the Copyright Office, but suit may be instituted after such recordation on a cause of action that arose before recordation.

(e) Priority between conflicting transfers

As between two conflicting transfers, the one executed first prevails if it is recorded, in the manner required to give constructive notice under subsection (c), within one month after its execution in the United States or within two months after its execution outside the United States, or at any time before recordation in such manner of the later transfer. Otherwise the later transfer prevails if recorded first in such manner, and if taken in good faith, for valuable consideration or on the basis of a binding promise to pay royalties, and without notice of the earlier transfer.

(f) Priority between conflicting transfer of ownership and nonexclusive license

A nonexclusive license, whether recorded or not, prevails over a conflicting transfer of copyright ownership if the license is evidenced by a written instrument signed by the owner of the rights licensed or such owner's duly authorized agent, and if—

(1) the license was taken before execution of the transfer; or

(2) the license was taken in good faith before recordation of the transfer and without notice of it.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2571.)

REGISTRATION OF CLAIMS TO COPYRIGHTS AND RECORDATION OF ASSIGNMENTS OF COPYRIGHTS AND OTHER INSTRUMENTS UNDER PREDECESSOR PROVISIONS

Recordation of assignments of copyrights or other instruments received in the Copyright Office before Jan. 1, 1978, to be made in accordance with this title as it existed on Dec. 31, 1977, see section 109 of Pub. L. 94-553, set out as a note under section 410 of this title.

CROSS REFERENCES

Copyright infringement action as subject to requirements of this section, see section 501 of this title.

Fee for recordation of a transfer of copyright ownership, see section 708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 501, 708 of this title.

CHAPTER 3—DURATION OF COPYRIGHT

Sec.
301. Preemption with respect to other laws.
302. Duration of copyright: Works created on or after January 1, 1978.
303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978.
304. Duration of copyright: Subsisting copyrights.
305. Duration of copyright: Terminal date.

§ 301. Preemption with respect to other laws

(a) On and after January 1, 1978, all legal or equitable rights that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103, whether created before or after that date and whether published or unpublished, are governed exclusively by this title. Thereafter, no person is entitled to any such right or equivalent right in any such work under the common law or statutes of any State.

(b) Nothing in this title annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

(1) subject matter that does not come within the subject matter of copyright as specified by sections 102 and 103, including works of authorship not fixed in any tangible medium of expression; or

(2) any cause of action arising from undertakings commenced before January 1, 1978; or

(3) activities violating legal or equitable rights that are not equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106.

(c) With respect to sound recordings fixed before February 15, 1972, any rights or remedies under the common law or statutes of any State shall not be annulled or limited by this title until February 15, 2047. The preemptive provisions of subsection (a) shall apply to any such rights and remedies pertaining to any cause of action arising from undertakings commenced on and after February 15, 2047. Notwithstanding the provisions of section 303, no sound recording fixed before February 15, 1972, shall be subject to copyright under this title before, on, or after February 15, 2047.

(d) Nothing in this title annuls or limits any rights or remedies under any other Federal statute.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2572.)

§ 302. Duration of copyright: Works created on or after January 1, 1978

(a) In general

Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and fifty years after the author's death.

(b) Joint works

In the case of a joint work prepared by two or more authors who did not work for hire, the copyright endures for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

(c) Anonymous works, pseudonymous works, and works made for hire

In the case of an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of seventy-five years from the year of its first publication, or a term of one hundred years from the year of its creation, whichever expires first. If, before the end of such term, the identity of one or more of the authors of an anonymous or pseudonymous work is revealed in the records of a registration made for that work under subsections (a) or (d) of section 408, or in the records provided by

this subsection, the copyright in the work endures for the term specified by subsection (a) or (b), based on the life of the author or authors whose identity has been revealed. Any person having an interest in the copyright in an anonymous or pseudonymous work may at any time record, in records to be maintained by the Copyright Office for that purpose, a statement identifying one or more authors of the work; the statement shall also identify the person filing it, the nature of that person's interest, the source of the information recorded, and the particular work affected, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation.

(d) Records relating to death of authors

Any person having an interest in a copyright may at any time record in the Copyright Office a statement of the date of death of the author of the copyrighted work, or a statement that the author is still living on a particular date. The statement shall identify the person filing it, the nature of that person's interest, and the source of the information recorded, and shall comply in form and content with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall maintain current records of information relating to the death of authors of copyrighted works, based on such recorded statements and, to the extent the Register considers practicable, on data contained in any of the records of the Copyright Office or in other reference sources.

(e) Presumption as to author's death

After a period of seventy-five years from the year of first publication of a work, or a period of one hundred years from the year of its creation, whichever expires first, any person who obtains from the Copyright Office a certified report that the records provided by subsection (d) disclose nothing to indicate that the author of the work is living, or died less than fifty years before, is entitled to the benefits of a presumption that the author has been dead for at least fifty years. Reliance in good faith upon this presumption shall be a complete defense to any action for infringement under this title.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2572.)

CROSS REFERENCES

Duration and renewal of registration of trade-marks, see sections 1058 and 1059 of Title 15, Commerce and Trade.

Duration of term of patents, see section 154 of Title 35, Patents.

Fee for recordation of statement revealing identity of author of amonymous or pseudonymous work or for statement relating to death of author, see section 708 of this title.

Notice of copyright, error in date as affecting duration, see section 406 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 303, 305, 406, 708 of this title.

§ 303. Duration of copyright: Works created but not published or copyrighted before January 1, 1978

Copyright in a work created before January 1, 1978, but not theretofore in the public domain or copyrighted, subsists from January 1, 1978, and endures for the term provided by section 302. In no case, however, shall the term of copyright in such a work expire before December 31, 2002; and, if the work is published on or before December 31, 2002, the term of copyright shall not expire before December 31, 2027.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2573.)

CROSS REFERENCES

Duration and renewal of registration of trade-marks, see sections 1058 and 1059 of Title 15, Commerce and Trade.

Duration of term of patents, see section 154 of Title 35, Patents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 301, 305 of this title.

§ 304. Duration of copyright: Subsisting copyrights

(a) Copyrights in their first term on January 1, 1978

Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for twenty-eight years from the date it was originally secured: *Provided,* That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his or her next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of forty-seven years when application for such renewal and extension shall have been made to the Copyright Office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in default of the registration of such application for renewal and extension, the copyright in any work shall terminate at the expiration of twenty-eight years from the date copyright was originally secured.

(b) Copyrights in their renewal term or registered for renewal before January 1, 1978

The duration of any copyright, the renewal term of which is subsisting at any time between December 31, 1976, and December 31, 1977, inclusive, or for which renewal registration is

made between December 31, 1976, and December 31, 1977, inclusive, is extended to endure for a term of seventy-five years from the date copyright was originally secured.

(c) Termination of transfers and licenses covering extended renewal term

In the case of any copyright subsisting in either its first or renewal term on January 1, 1978, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated by the second proviso of subsection (a) of this section, otherwise than by will, is subject to termination under the following conditions:

(1) In the case of a grant executed by a person or persons other than the author, termination of the grant may be effected by the surviving person or persons who executed it. In the case of a grant executed by one or more of the authors of the work, termination of the grant may be effected, to the extent of a particular author's share in the ownership of the renewal copyright, by the author who executed it or, if such author is dead, by the person or persons who, under clause (2) of this subsection, own and are entitled to exercise a total of more than one-half of that author's termination interest.

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, by his widow or her widower and his or her children or grandchildren as follows:

(A) the widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest;

(B) the author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them;

(C) the rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

(3) Termination of the grant may be effected at any time during a period of five years beginning at the end of fifty-six years from the date copyright was originally secured, or beginning on January 1, 1978, whichever is later.

(4) The termination shall be effected by serving an advance notice in writing upon the grantee or the grantee's successor in title. In the case of a grant executed by a person or persons other than the author, the notice shall be signed by all of those entitled to terminate the grant under clause (1) of this subsection, or by their duly authorized agents. In the case of a grant executed by one or more of the authors of the work, the notice as to any one author's share shall be signed by that author or his or her duly authorized agent or, if that author is dead, by the number and proportion of the owners of his or her termination interest required under clauses (1) and (2) of this subsection, or by their duly authorized agents.

(A) The notice shall state the effective date of the termination, which shall fall within the five-year period specified by clause (3) of this subsection, and the notice shall be served not less than two or more than ten years before that date. A copy of the notice shall be recorded in the Copyright Office before the effective date of termination, as a condition to its taking effect.

(B) The notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.

(5) Termination of the grant may be effected notwithstanding any agreement to the contrary, including an agreement to make a will or to make any future grant.

(6) In the case of a grant executed by a person or persons other than the author, all rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to all of those entitled to terminate the grant under clause (1) of this subsection. In the case of a grant executed by one or more of the authors of the work, all of a particular author's rights under this title that were covered by the terminated grant revert, upon the effective date of termination, to that author or, if that author is dead, to the persons owning his or her termination interest under clause (2) of this subsection, including those owners who did not join in signing the notice of termination under clause (4) of this subsection. In all cases the reversion of rights is subject to the following limitations:

(A) A derivative work prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination, but this privilege does not extend to the preparation after the termination of other derivative works based upon the copyrighted work covered by the terminated grant.

(B) The future rights that will revert upon termination of the grant become vested on the date the notice of termination has been served as provided by clause (4) of this subsection.

(C) Where the author's rights revert to two or more persons under clause (2) of this subsection, they shall vest in those persons in the proportionate shares provided by that clause. In such a case, and subject to the provisions of subclause (D) of this clause, a further grant, or agreement to make a further grant, of a particular author's share with respect to any right covered by a terminated grant is valid only if it is signed by the same number and proportion of the owners, in whom the right has vested under this clause, as are required to terminate the grant under clause (2) of this

subsection. Such further grant or agreement is effective with respect to all of the persons in whom the right it covers has vested under this subclause, including those who did not join in signing it. If any person dies after rights under a terminated grant have vested in him or her, that person's legal representatives, legatees, or heirs at law represent him or her for purposes of this subclause.

(D) A further grant, or agreement to make a further grant, of any right covered by a terminated grant is valid only if it is made after the effective date of the termination. As an exception, however, an agreement for such a further grant may be made between the author or any of the persons provided by the first sentence of clause (6) of this subsection, or between the persons provided by subclause (C) of this clause, and the original grantee or such grantee's successor in title, after the notice of termination has been served as provided by clause (4) of this subsection.

(E) Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title, and in no way affects rights arising under any other Federal, State, or foreign laws.

(F) Unless and until termination is effected under this subsection, the grant, if it does not provide otherwise, continues in effect for the remainder of the extended renewal term.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2573.)

EFFECTIVE DATE

Subsec. (b) of this section effective Oct. 19, 1976, see section 102 of Pub. L. 94–553, set out as an Effective Date note preceding section 101 of this title.

AD INTERIM COPYRIGHTS SUBSISTING OR CAPABLE OF BEING SECURED UNDER PREDECESSOR PROVISIONS

Section 107 of Pub. L. 94–553 provided that: "In the case of any work in which an ad interim copyright is subsisting or is capable of being secured on December 31, 1977, under section 22 of title 17 as it existed on that date, copyright protection is hereby extended to endure for the term or terms provided by section 304 of title 17 as amended by the first section of this Act [this section]."

CROSS REFERENCES

Alternative to separate renewal registrations for group works by single author, see section 408 of this title.

Duration and renewal of registration of trade-marks, see sections 1058 and 1059 of Title 15, Commerce and Trade.

Duration of term of patents, see section 154 of Title 35, Patents.

Fee for registration of claim to renewal of subsisting copyright in first term, see section 708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 305, 408, 708 of this title.

§ 305. Duration of copyright: Terminal date

All terms of copyright provided by sections 302 through 304 run to the end of the calendar year in which they would otherwise expire.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2576.)

CROSS REFERENCES

Duration and renewal of registration of trade-marks, see sections 1058 and 1059 of Title 15, Commerce and Trade.

Duration of term of patents, see section 154 of Title 35, Patents.

CHAPTER 4—COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION

Sec.
401. Notice of copyright: Visually perceptible copies.
402. Notice of copyright: Phonorecords of sound recordings.
403. Notice of copyright: Publications incorporating United States Government works.
404. Notice of copyright: Contributions to collective works.
405. Notice of copyright: Omission of notice.
406. Notice of copyright: Error in name or date.
407. Deposit of copies or phonorecords for Library of Congress.
408. Copyright registration in general.
409. Application for copyright registration.
410. Registration of claim and issuance of certificate.
411. Registration as prerequisite to infringement suit.
412. Registration as prerequisite to certain remedies for infringement.

§ 401. Notice of copyright: Visually perceptible copies

(a) General requirement

Whenever a work protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed copies from which the work can be visually perceived, either directly or with the aid of a machine or device.

(b) Form of notice

The notice appearing on the copies shall consist of the following three elements:

(1) the symbol © (the letter C in a circle), or the word "Copyright", or the abbreviation "Copr."; and

(2) the year of first publication of the work; in the case of compilations, or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying text matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful articles; and

(3) the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

(c) Position of notice

The notice shall be affixed to the copies in such manner and location as to give reasonable notice of the claim of copyright. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of the notice on various types of works that will satisfy this requirement, but these specifications shall not be considered exhaustive.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2576.)

COMPLIANCE WITH PREDECESSOR NOTICE PROVISIONS; COPIES DISTRIBUTED AFTER DEC. 31, 1977

Section 108 of Pub. L. 94-553 provided that: "The notice provisions of sections 401 through 403 of title 17 as amended by the first section of this Act [sections 401 through 403 of this title] apply to all copies or phonorecords publicly distributed on or after January 1, 1978. However, in the case of a work published before January 1, 1978, compliance with the notice provisions of title 17 either as it existed on December 31, 1977, or as amended by the first section of this Act, is adequate with respect to copies publicly distributed after December 31, 1977."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403 to 405 of this title.

§ 402. Notice of copyright: Phonorecords of sound recordings

(a) General requirement

Whenever a sound recording protected under this title is published in the United States or elsewhere by authority of the copyright owner, a notice of copyright as provided by this section shall be placed on all publicly distributed phonorecords of the sound recording.

(b) Form of notice

The notice appearing on the phonorecords shall consist of the following three elements:

(1) the symbol Ⓟ (the letter P in a circle); and

(2) the year of first publication of the sound recording; and

(3) the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner; if the producer of the sound recording is named on the phonorecord labels or containers, and if no other name appears in conjunction with the notice, the producer's name shall be considered a part of the notice.

(c) Position of notice

The notice shall be placed on the surface of the phonorecord, or on the phonorecord label or container, in such manner and location as to give reasonable notice of the claim of copyright.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2577.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 403 to 405 of this title.

§ 403. Notice of copyright: Publications incorporating United States Government works

Whenever a work is published in copies or phonorecords consisting preponderantly of one or more works of the United States Government, the notice of copyright provided by sections 401 or 402 shall also include a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2577.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 404, 405 of this title.

§ 404. Notice of copyright: Contributions to collective works

(a) A separate contribution to a collective work may bear its own notice of copyright, as provided by sections 401 through 403. However, a single notice applicable to the collective work as a whole is sufficient to satisfy the requirements of sections 401 through 403 with respect to the separate contributions it contains (not including advertisements inserted on behalf of persons other than the owner of copyright in the collective work), regardless of the ownership of copyright in the contributions and whether or not they have been previously published.

(b) Where the person named in a single notice applicable to a collective work as a whole is not the owner of copyright in a separate contribution that does not bear its own notice, the case is governed by the provisions of section 406(a).

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2577.)

§ 405. Notice of copyright: Omission of notice

(a) Effect of omission on copyright

The omission of the copyright notice prescribed by sections 401 through 403 from copies or phonorecords publicly distributed by authority of the copyright owner does not invalidate the copyright in a work if—

(1) the notice has been omitted from no more than a relatively small number of copies or phonorecords distributed to the public; or

(2) registration for the work has been made before or is made within five years after the publication without notice, and a reasonable effort is made to add notice to all copies or phonorecords that are distributed to the public in the United States after the omission has been discovered; or

(3) the notice has been omitted in violation of an express requirement in writing that, as a condition of the copyright owner's authorization of the public distribution of copies or phonorecords, they bear the prescribed notice.

(b) Effect of omission on innocent infringers

Any person who innocently infringes a copyright, in reliance upon an authorized copy or phonorecord from which the copyright notice has been omitted, incurs no liability for actual or statutory damages under section 504 for any infringing acts committed before receiving actual notice that registration for the work has been made under section 408, if such person proves that he or she was misled by the omission of notice. In a suit for infringement in such a case the court may allow or disallow recovery of any of the infringer's profits attributable to the infringement, and may enjoin the continuation of the infringing undertaking or may require, as a condition or permitting the continuation of the infringing undertaking,

that the infringer pay the copyright owner a reasonable license fee in an amount and on terms fixed by the court.

(c) Removal of notice

Protection under this title is not affected by the removal, destruction, or obliteration of the notice, without the authorization of the copyright owner, from any publicly distributed copies or phonorecords.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2578.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 406, 408 of this title.

§ 406. Notice of copyright: Error in name or date

(a) Error in name

Where the person named in the copyright notice on copies or phonorecords publicly distributed by authority of the copyright owner is not the owner of copyright, the validity and ownership of the copyright are not affected. In such a case, however, any person who innocently begins an undertaking that infringes the copyright has a complete defense to any action for such infringement if such person proves that he or she was misled by the notice and began the undertaking in good faith under a purported transfer or license from the person named therein, unless before the undertaking was begun—

(1) registration for the work had been made in the name of the owner of copyright; or

(2) a document executed by the person named in the notice and showing the ownership of the copyright had been recorded.

The person named in the notice is liable to account to the copyright owner for all receipts from transfers or licenses purportedly made under the copyright by the person named in the notice.

(b) Error in date

When the year date in the notice on copies or phonorecords distributed by authority of the copyright owner is earlier than the year in which publication first occurred, any period computed from the year of first publication under section 302 is to be computed from the year in the notice. Where the year date is more than one year later than the year in which publication first occurred, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(c) Omission of name or date

Where copies or phonorecords publicly distributed by authority of the copyright owner contain no name or no date that could reasonably be considered a part of the notice, the work is considered to have been published without any notice and is governed by the provisions of section 405.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2578.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 404 of this title.

§ 407. Deposit of copies or phonorecords for Library of Congress

(a) Except as provided by subsection (c), and subject to the provisions of subsection (e), the owner of copyright or of the exclusive right of publication in a work published with notice of copyright in the United States shall deposit, within three months after the date of such publication—

(1) two complete copies of the best edition; or

(2) if the work is a sound recording, two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.

Neither the deposit requirements of this subsection nor the acquisition provisions of subsection (e) are conditions of copyright protection.

(b) The required copies or phonorecords shall be deposited in the Copyright Office for the use or disposition of the Library of Congress. The Register of Copyrights shall, when requested by the depositor and upon payment of the fee prescribed by section 708, issue a receipt for the deposit.

(c) The Register of Copyrights may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories. Such regulations shall provide either for complete exemption from the deposit requirements of this section, or for alternative forms of deposit aimed at providing a satisfactory archival record of a work without imposing practical or financial hardships on the depositor, where the individual author is the owner of copyright in a pictorial, graphic, or sculptural work and (i) less than five copies of the work have been published, or (ii) the work has been published in a limited edition consisting of numbered copies, the monetary value of which would make the mandatory deposit of two copies of the best edition of the work burdensome, unfair, or unreasonable.

(d) At any time after publication of a work as provided by subsection (a), the Register of Copyrights may make written demand for the required deposit on any of the persons obligated to make the deposit under subsection (a). Unless deposit is made within three months after the demand is received, the person or persons on whom the demand was made are liable—

(1) to a fine of not more than $250 for each work; and

(2) to pay into a specially designated fund in the Library of Congress the total retail price of the copies or phonorecords demanded, or, if no retail price has been fixed, the reasonable cost of the Library of Congress of acquiring them; and

(3) to pay a fine of $2,500, in addition to any fine or liability imposed under clauses (1) and (2), if such person willfully or repeatedly fails or refuses to comply with such a demand.

(e) With respect to transmission programs that have been fixed and transmitted to the public in the United States but have not been published, the Register of Copyrights shall,

after consulting with the Librarian of Congress and other interested organizations and officials, establish regulations governing the acquisition, through deposit or otherwise, of copies or phonorecords of such programs for the collections of the Library of Congress.

(1) The Librarian of Congress shall be permitted, under the standards and conditions set forth in such regulations, to make a fixation of a transmission program directly from a transmission to the public, and to reproduce one copy or phonorecord from such fixation for archival purposes.

(2) Such regulations shall also provide standards and procedures by which the Register of Copyrights may make written demand, upon the owner of the right of transmission in the United States, for the deposit of a copy or phonorecord of a specific transmission program. Such deposit may, at the option of the owner of the right of transmission in the United States, be accomplished by gift, by loan for purposes of reproduction, or by sale at a price not to exceed the cost of reproducing and supplying the copy or phonorecord. The regulations established under this clause shall provide reasonable periods of not less than three months for compliance with a demand, and shall allow for extensions of such periods and adjustments in the scope of the demand or the methods for fulfilling it, as reasonably warranted by the circumstances. Willful failure or refusal to comply with the conditions prescribed by such regulations shall subject the owner of the right of transmission in the United States to liability for an amount, not to exceed the cost of reproducing and supplying the copy or phonorecord in question, to be paid into a specially designated fund in the Library of Congress.

(3) Nothing in this subsection shall be construed to require the making or retention, for purposes of deposit, of any copy or phonorecord of an unpublished transmission program, the transmission of which occurs before the receipt of a specific written demand as provided by clause (2).

(4) No activity undertaken in compliance with regulations prescribed under clauses (1) or (2) of this subsection shall result in liability if intended solely to assist in the acquisition of copies or phonorecords under this subsection.

(Added Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2579.)

DEPOSITS AND REGISTRATIONS MADE AFTER DECEMBER 31, 1977, IN RESPONSE TO DEMAND UNDER PREDECESSOR DEMAND AND PENALTY PROVISIONS

Section 110 of Pub. L. 94-553 provided that: "The demand and penalty provisions of section 14 of title 17 as it existed on December 31, 1977, apply to any work in which copyright has been secured by publication with notice of copyright on or before that date, but any deposit and registration made after that date in response to a demand under that section shall be made in accordance with the provisions of title 17 as amended by the first section of this Act."

CROSS REFERENCES

Fee for issuance of a receipt for a deposit, see section 708 of this title.

Jurisdiction of district courts of action or proceeding for recovery or enforcement of fines, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Placement of copies and phonorecords acquired in accordance with this section in American Television and Radio Archives, see section 170 of Title 2, The Congress.

Records of deposits to be kept in Copyright Office, see section 705 of this title.

Retention and deposition of articles deposited in Copyright Office, see section 704 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 408, 704, 708 of this title; title 2 section 170.

§ 408. Copyright registration in general

(a) Registration permissive

At any time during the subsistence of copyright in any published or unpublished work, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Subject to the provisions of section 405(a), such registration is not a condition of copyright protection.

(b) Deposit for copyright registration

Except as provided by subsection (c), the material deposited for registration shall include—

(1) in the case of an unpublished work, one complete copy or phonorecord;

(2) in the case of a published work, two complete copies or phonorecords of the best edition;

(3) in the case of a work first published outside the United States, one complete copy or phonorecord as so published;

(4) in the case of a contribution to a collective work, one complete copy or phonorecord of the best edition of the collective work.

Copies or phonorecords deposited for the Library of Congress under section 407 may be used to satisfy the deposit provisions of this section, if they are accompanied by the prescribed application and fee, and by any additional identifying material that the Register may, by regulation, require. The Register shall also prescribe regulations establishing requirements under which copies or phonorecords acquired for the Library of Congress under subsection (e) of section 407, otherwise than by deposit, may be used to satisfy the deposit provisions of this section.

(c) Administrative classification and optional deposit

(1) The Register of Copyrights is authorized to specify by regulation the administrative classes into which works are to be placed for purposes of deposit and registration, and the nature of the copies or phonorecords to be deposited in the various classes specified. The regulations may require or permit, for particular classes, the deposit of identifying material instead of copies or phonorecords, the deposit of only one copy or phonorecord where two would normally be required, or a single registration for a group of related works. This administrative classification of works has no significance with respect to the subject matter of copyright or the exclusive rights provided by this title.

(2) Without prejudice to the general authority provided under clause (1), the Register of Copyrights shall establish regulations specifically permitting a single registration for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, within a twelve-month period, on the basis of a single deposit, application, and registration fee, under all of the following conditions—

(A) if each of the works as first published bore a separate copyright notice, and the name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner was the same in each notice; and

(B) if the deposit consists of one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published; and

(C) if the application identifies each work separately, including the periodical containing it and its date of first publication.

(3) As an alternative to separate renewal registrations under subsection (a) of section 304, a single renewal registration may be made for a group of works by the same individual author, all first published as contributions to periodicals, including newspapers, upon the filing of a single application and fee, under all of the following conditions:

(A) the renewal claimant or claimants, and the basis of claim or claims under section 304(a), is the same for each of the works; and

(B) the works were all copyrighted upon their first publication, either through separate copyright notice and registration or by virtue of a general copyright notice in the periodical issue as a whole; and

(C) the renewal application and fee are received not more than twenty-eight or less than twenty-seven years after the thirty-first day of December of the calendar year in which all of the works were first published; and

(D) the renewal application identifies each work separately, including the periodical containing it and its date of first publication.

(d) Corrections and amplifications

The Register may also establish, by regulation, formal procedures for the filing of an application for supplementary registration, to correct an error in a copyright registration or to amplify the information given in a registration. Such application shall be accompanied by the fee provided by section 708, and shall clearly identify the registration to be corrected or amplified. The information contained in a supplementary registration augments but does not supersede that contained in the earlier registration.

(e) Published edition of previously registered work

Registration for the first published edition of a work previously registered in unpublished form may be made even though the work as published is substantially the same as the unpublished version.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2580.)

CROSS REFERENCES

Fee for registration of copyright claim or supplementary registration, see section 708 of this title.

Forms and procedures, reproduction for use of the blind and physically handicapped, see section 710 of this title.

Issuance of importation statement, material not manufactured in United States or Canada, see section 601 of this title.

Placement of copies and phonorecords acquired in accordance with this section in American Television and Radio Archives, see section 170 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302, 405, 601, 704, 708, 710 of this title; title 2 section 170.

§ 409. Application for copyright registration

The application for copyright registration shall be made on a form prescribed by the Register of Copyrights and shall include—

(1) the name and address of the copyright claimant;

(2) in the case of a work other than an anonymous or pseudonymous work, the name and nationality or domicile of the author or authors, and, if one or more of the authors is dead, the dates of their deaths;

(3) if the work is anonymous or pseudonymous, the nationality or domicile of the author or authors;

(4) in the case of a work made for hire, a statement to this effect;

(5) if the copyright claimant is not the author, a brief statement of how the claimant obtained ownership of the copyright;

(6) the title of the work, together with any previous or alternative titles under which the work can be identified;

(7) the year in which creation of the work was completed;

(8) if the work has been published, the date and nation of its first publication;

(9) in the case of a compilation or derivative work, an identification of any preexisting work or works that it is based on or incorporates, and a brief, general statement of the additional material covered by the copyright claim being registered;

(10) in the case of a published work containing material of which copies are required by section 601 to be manufactured in the United States, the names of the persons or organizations who performed the processes specified by subsection (c) of section 601 with respect to that material, and the places where those processes were performed; and

(11) any other information regarded by the Register of Copyrights as bearing upon the preparation or identification of the work or the existence, ownership, or duration of the copyright.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2582.)

CROSS REFERENCES

Penalty for false representation of material fact, see section 506 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 408, 506 of this title.

§ 410. Registration of claim and issuance of certificate

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.

(c) In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.

(d) The effective date of a copyright registration is the day on which an application, deposit, and fee, which are later determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration, have all been received in the Copyright Office.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2582.)

REGISTRATION OF CLAIMS TO COPYRIGHTS AND RECORDATION OF ASSIGNMENTS OF COPYRIGHTS AND OTHER INSTRUMENTS UNDER PREDECESSOR PROVISIONS

Section 109 of Pub. L. 94-553 provided that: "The registration of claims to copyright for which the required deposit, application, and fee were received in the Copyright Office before January 1, 1978, and the recordation of assignments of copyright or other instruments received in the Copyright Office before January 1, 1978, shall be made in accordance with title 17 as it existed on December 31, 1977."

FEDERAL RULES OF EVIDENCE

Self-authentication, domestic public documents under seal, see rule 902, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Deduction in refund in case involving refusal to register a claim, see section 708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 708 of this title.

§ 411. Registration as prerequisite to infringement suit

(a) Subject to the provisions of subsection (b), no action for infringement of the copyright in any work shall be instituted until registration of the copyright claim has been made in accordance with this title. In any case, however, where the deposit, application, and fee required for registration have been delivered to the Copyright Office in proper form and registration has been refused, the applicant is entitled to institute an action for infringement if notice thereof, with a copy of the complaint, is served on the Register of Copyrights. The Register may, at his or her option, become a party to the action with respect to the issue of registrability of the copyright claim by entering an appearance within sixty days after such service, but the Register's failure to become a party shall not deprive the court of jurisdiction to determine that issue.

(b) In the case of a work consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, the copyright owner may, either before or after such fixation takes place, institute an action for infringement under section 501, fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if, in accordance with requirements that the Register of Copyrights shall prescribe by regulation, the copyright owner—

(1) serves notice upon the infringer, not less than ten or more than thirty days before such fixation, identifying the work and the specific time and source of its first transmission, and declaring an intention to secure copyright in the work; and

(2) makes registration for the work within three months after its first transmission.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2583.)

CROSS REFERENCES

Infringement actions, see section 501 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 412, 501 of this title.

§ 412. Registration as prerequisite to certain remedies for infringement

In any action under this title, other than an action instituted under section 411(b), no award of statutory damages or of attorney's fees, as provided by sections 504 and 505, shall be made for—

(1) any infringement of copyright in an unpublished work commenced before the effective date of its registration; or

(2) any infringement of copyright commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after the first publication of the work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2583.)

CHAPTER 5—COPYRIGHT INFRINGEMENT AND REMEDIES

Sec.
501. Infringement of copyright.
502. Remedies for infringement: Injunctions.

Sec.
503. Remedies for infringement: Impounding and disposition of infringing articles.
504. Remedies for infringement: Damage and profits.
505. Remedies for infringement: Costs and attorney's fees.
506. Criminal offenses.
507. Limitations on actions.
508. Notification of filing and determination of actions.
509. Seizure and forfeiture.
510. Remedies for alteration of programing by cable systems.

§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 118, or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright.

(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of sections 205(d) and 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. The court may require such owner to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.

(c) For any secondary transmission by a cable system that embodies a performance or a display of a work which is actionable as an act of infringement under subsection (c) of section 111, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that television station.

(d) For any secondary transmission by a cable system that is actionable as an act of infringement pursuant to section 111(c)(3), the following shall also have standing to sue: (i) the primary transmitter whose transmission has been altered by the cable system; and (ii) any broadcast station within whose local service area the secondary transmission occurs.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2584.)

CAUSES OF ACTION ARISING UNDER PREDECESSOR PROVISIONS

Section 112 of Pub. L. 94-553 provided that: "All causes of action that arose under title 17 before January 1, 1978, shall be governed by title 17 as it existed when the cause of action arose."

FEDERAL RULES OF CIVIL PROCEDURE

Application of Rules, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL FORMS OF CIVIL PROCEDURE

Form of complaint for injunction and damages, see form 17, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Acts of infringement—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.
Secondary transmission of primary transmission, see section 111 of this title.

Exclusive jurisdiction of district courts of actions arising under copyright laws, see section 1338 of Title 28, Judiciary and Judicial Procedure.

Importation of copies or phonorecords without authority, see section 602 of this title.

Power of the Congress to regulate copyrights, see Const. Art. I, § 8, cl. 8.

Registration as prerequisite to infringement action and to certain remedies for infringement, see sections 411, 412 of this title.

United States as infringer, action in Court of Claims, see section 1498 of Title 28, Judiciary and Judicial Procedure.

Venue in copyright actions, see section 1400 of Title 28.

Works consisting of sounds, images, or both, the first fixation of which is made sumultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411, 510, 602 of this title.

§ 502. Remedies for infringement: Injunctions

(a) Any court having jurisdiction of a civil action arising under this title may, subject to the provisions of section 1498 of title 28, grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.

(b) Any such injunction may be served anywhere in the United States on the person enjoined; it shall be operative throughout the United States and shall be enforceable, by proceedings in contempt or otherwise, by any United States court having jurisdiction of that person. The clerk of the court granting the injunction shall, when requested by any other court in which enforcement of the injunction is sought, transmit promptly to the other court a certified copy of all the papers in the case on file in such clerk's office.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2584.)

FEDERAL RULES OF CIVIL PROCEDURE

Injunctions, generally, see rule 65, Title 28, Appendix, Judiciary and Judicial Procedure.

Security—
Upon granting injunction pending appeal, see rule 62.
Upon granting preliminary injunction, see rule 65.

Territorial extent of effective service of process, see rule 4.

FEDERAL FORMS OF CIVIL PROCEDURE

Form of complaint for injunction and damages, see form 17, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Acts of infringement—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.

Secondary transmission of primary transmission, see section 111 of this title.

Power of court to punish for contempt for disobedience to decrees or orders, see section 401 of Title 18, Crimes and Criminal Procedure.

Works consisting of sounds, image, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411, 510 of this title.

§ 503. Remedies for infringement: Impounding and disposition of infringing articles

(a) At any time while an action under this title is pending, the court may order the impounding, on such terms as it may deem reasonable, of all copies or phonorecords claimed to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(b) As part of a final judgment or decree, the court may order the destruction or other reasonable disposition of all copies or phonorecords found to have been made or used in violation of the copyright owner's exclusive rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2585.)

CROSS REFERENCES

Acts of infringement—

Making and distributing phonorecords, see section 115 of this title.

Public performances, see section 116 of this title.

Secondary transmission of primary transmission, see section 111 of this title.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411, 510 of this title.

§ 504. Remedies for infringement: Damages and profits

(a) In general

Except as otherwise provided by this title, an infringer of copyright is liable for either—

(1) the copyright owner's actual damages and any additional profits of the infringer, as provided by subsection (b); or

(2) statutory damages, as provided by subsection (c).

(b) Actual damages and profits

The copyright owner is entitled to recover the actual damages suffered by him or her as a result of the infringement, and any profits of the infringer that are attributable to the infringement and are not taken into account in computing the actual damages. In establishing the infringer's profits, the copyright owner is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the copyrighted work.

(c) Statutory damages

(1) Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than $250 or more than $10,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.

(2) In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than $50,000. In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than $100. The court shall remit statutory damages in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under section 107, if the infringer was: (i) an employee or agent of a nonprofit educational institution, library, or archives acting within the scope of his or her employment who, or such institution, library, or archives itself, which infringed by reproducing the work in copies or phonorecords; or (ii) a public broadcasting entity which or a person who, as a regular part of the nonprofit activities of a public broadcasting entity (as defined in subsection (g) of section 118) infringed by performing a published nondramatic literary work or by reproducing a transmission program embodying a performance of such a work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2585.)

CROSS REFERENCES

Acts of infringement—

Making and distributing phonorecords, see section 115 of this title.

Public performances, see section 116 of this title.

Secondary transmission of primary transmission, see section 111 of this title.

Registration as prerequisite for award of statutory damages, see section 412 of this title.

Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 405, 411, 412, 510 of this title; title 28 section 1498.

§ 505. Remedies for infringement: Costs and attorney's fees

In any civil action under this title, the court in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof. Except as otherwise provided by this title, the court may also award a reasonable attorney's fee to the prevailing party as part of the costs.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

CROSS REFERENCES

Acts of infringement—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.
Secondary transmission of primary transmission, see section 111 of this title.
Costs against United States generally, see section 2412 of Title 28, Judiciary and Judicial Procedure, and rule 54 of Federal Rules of Civil Procedure, Title 28, Appendix.
Registration as prerequisite for award of attorney fees, see section 412 of this title.
Taxation of costs, see section 1920 of Title 28, Judiciary and Judicial Procedure.
Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411, 412, 510 of this title.

§ 506. Criminal offenses

(a) Criminal infringement

Any person who infringes a copyright willfully and for purposes of commercial advantage or private financial gain shall be fined not more than $10,000 or imprisoned for not more than one year, or both: *Provided, however,* That any person who infringes willfully and for purposes of commercial advantage or private financial gain the copyright in a sound recording afforded by subsections (1), (2), or (3) of section 106 or the copyright in a motion picture afforded by subsections (1), (3), or (4) of section 106 shall be fined not more than $25,000 or imprisoned for not more than one year, or both, for the first such offense and shall be fined not more than $50,000 or imprisoned for not more than two years, or both, for any subsequent offense.

(b) Forfeiture and destruction

When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall, in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all infringing copies or phonorecords and all implements, devices, or equipment used in the manufacture of such infringing copies or phonorecords.

(c) Fraudulent copyright notice

Any person who, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be fined not more than $2,500.

(d) Fraudulent removal of copyright notice

Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(e) False representation

Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

CROSS REFERENCES

Acts of infringement subject to this section—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.
Secondary transmission of primary transmission, see section 111 of this title.
Costs or prosecution taxable in non-capital proceedings, see section 1918 of Title 28, Judiciary and Judicial Procedure.
Felony and misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.
Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411, 509 of this title.

§ 507. Limitations on actions

(a) Criminal proceedings

No criminal proceeding shall be maintained under the provisions of this title unless it is commenced within three years after the cause of action arose.

(b) Civil actions

No civil action shall be maintained under the provisions of this title unless it is commenced within three years after the claim accrued.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

CROSS REFERENCES

Limitation on prosecution, trial, or punishment of non-capital offenses generally, see section 3282 of Title 18, Crimes and Criminal Procedure.

§ 508. Notification of filing and determination of actions

(a) Within one month after the filing of any action under this title, the clerks of the courts of the United States shall send written notification to the Register of Copyrights setting forth, as far as is shown by the papers filed in the court, the names and addresses of the parties and the title, author, and registration number of each work involved in the action. If any other copyrighted work is later included in the action by amendment, answer, or other pleading, the clerk shall also send a notification concerning it to the Register within one month after the pleading is filed.

(b) Within one month after any final order or judgment is issued in the case, the clerk of the

court shall notify the Register of it, sending with the notification a copy of the order or judgment together with the written opinion, if any, of the court.

(c) Upon receiving the notifications specified in this section, the Register shall make them a part of the public records of the Copyright Office.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2586.)

§ 509. Seizure and forfeiture

(a) All copies or phonorecords manufactured, reproduced, distributed, so[1], or otherwise used, intended for use, or possessed with intent to use in violation of section 506(a), and all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such copies or phonorecords may be reproduced, and all electronic, mechanical, or other devices for manufacturing, reproducing, or assembling such copies or phonorecords may be seized and forfeited to the United States.

(b) The applicable procedures relating to (i) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19, (ii) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (iii) the remission or mitigation of such forfeiture, (iv) the compromise of claims, and (v) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon any officer or employee of the Treasury Department or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise; [1] and baggage under the provisions of the customs laws contained in title 19 shall be performed with respect to seizure and forfeiture of all articles described in subsection (a) by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2587.)

CROSS REFERENCES

Acts of infringement subject to this section—
Making and distributing phonorecords, see section 115 of this title.
Public performances, see section 116 of this title.
Secondary transmission of primary transmission, see section 111 of this title.
Transportation, sale or receipt of phonograph records bearing forged or counterfeit labels, see section 2318 of Title 18, Crimes and Criminal Procedure.
Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 115, 116, 411 of this title; title 18 section 2318.

[1] So in original. The semicolon probably should be a comma.

§ 510. Remedies for alteration of programing by cable systems

(a) In any action filed pursuant to section 111(c)(3), the following remedies shall be available:

(1) Where an action is brought by a party identified in subsections (b) or (c) of section 501, the remedies provided by sections 502 through 505, and the remedy provided by subsection (b) of this section; and

(2) When an action is brought by a party identified in subsection (d) of section 501, the remedies provided by sections 502 and 505, together with any actual damages suffered by such party as a result of the infringement, and the remedy provided by subsection (b) of this section.

(b) In any action filed pursuant to section 111(c)(3), the court may decree that, for a period not to exceed thirty days, the cable system shall be deprived of the benefit of a compulsory license for one or more distant signals carried by such cable system.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2587.)

CROSS REFERENCES

Secondary transmission of primary transmission as subject to this section, see section 111 of this title.
Works consisting of sounds, images, or both, the first fixation of which is made simultaneously with its transmission, as subject to this section, although not yet registered, see section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 111, 411 of this title.

CHAPTER 6—MANUFACTURING REQUIREMENTS AND IMPORTATION

Sec.
601. Manufacture, importation, and public distribution of certain copies.
602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Prior to July 1, 1982, and except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply—

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if such author is a national of the United States, he or she has been domiciled outside the United States for a continuous period of at least one year immediately preceding that date; in the case of a work made for hire, the exemption

provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the United States Customs Service is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by such owner at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the Government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought—

(A) by any person with respect to no more than one copy of any work at any one time;

(B) by any person arriving from outside the United States, with respect to copies forming part of such person's personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind; or

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States; or

(7) where, on the date when importation is sought or public distribution in the United States is made—

(A) the author of any substantial part of such material is an individual and receives compensation for the transfer or license of the right to distribute the work in the United States; and

(B) the first publication of the work has previously taken place outside the United States under a transfer or license granted by such author to a transferee or licensee who was not a national or domiciliary of the United States or a domestic corporation or enterprise; and

(C) there has been no publication of an authorized edition of the work of which the copies were manufactured in the United States; and

(D) the copies were reproduced under a transfer or license granted by such author or by the transferee or licensee of the right of first publication as mentioned in subclause (B), and the transferee or the licensee of the right of reproduction was not a national or domiciliary of the United States or a domestic corporation or enterprise.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if—

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the nondramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if the infringer proves—

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2588.)

CROSS REFERENCES

Application for copyright registration, names of persons or organizations who performed the processes specified in this section, see section 409 of this title.

Fee for issuance of import statement, see section 708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 409, 602, 708 of this title.

§ 602. Infringing importation of copies or phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to—

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State, but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from outside the United States with respect to copies or phonorecords forming part of such person's personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes, unless the importation of such copies or phonorecords is part of an activity consisting of systematic reproduction or distribution, engaged in by such organization in violation of the provisions of section 108(g)(2).

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the United States Customs Service has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Customs Service of the importation of articles that appear to be copies or phonorecords of the work.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2589.)

CROSS REFERENCES

Importer of copies or phonorecords into the United States as infringer, see section 501 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 501, 603 of this title.

§ 603. Importation prohibitions: Enforcement and disposition of excluded articles

(a) The Secretary of the Treasury and the United States Postal Service shall separately or jointly make regulations for the enforcement of the provisions of this title prohibiting importation.

(b) These regulations may require, as a condition for the exclusion of articles under section 602—

(1) that the person seeking exclusion obtain a court order enjoining importation of the articles; or

(2) that the person seeking exclusion furnish proof, of a specified nature and in accordance with prescribed procedures, that the copyright in which such person claims an interest is valid and that the importation would violate the prohibition in section 602; the person seeking exclusion may also be required to post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(c) Articles imported in violation of the importation prohibitions of this title are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. Forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be; however, the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of law.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2590.)

REFERENCES IN TEXT

The customs revenue laws, referred to in subsec. (c), are classified generally to Title 19, Customs Duties.

CHAPTER 7—COPYRIGHT OFFICE

Sec.
701. The Copyright Office: General responsibilities and organization.
702. Copyright Office regulations.
703. Effective date of actions in Copyright Office.
704. Retention and disposition of articles deposited in Copyright Office.
705. Copyright Office records: Preparation, maintenance, public inspection, and searching.
706. Copies of Copyright Office records.
707. Copyright Office forms and publications.
708. Copyright Office fees.
709. Delay in delivery caused by disruption of postal or other services.
710. Reproductions for use of the blind and physically handicapped: Voluntary licensing forms and procedures.

§ 701. The Copyright Office: General responsibilities and organization

(a) All administrative functions and duties under this title, except as otherwise specified, are the responsibility of the Register of Copyrights as director of the Copyright Office of the Library of Congress. The Register of Copyrights, together with the subordinate officers and employees of the Copyright Office, shall be appointed by the Librarian of Congress, and shall act under the Librarian's general direction and supervision.

(b) The Register of Copyrights shall adopt a seal to be used on and after January 1, 1978, to

authenticate all certified documents issued by the Copyright Office.

(c) The Register of Copyrights shall make an annual report to the Librarian of Congress of the work and accomplishments of the Copyright Office during the previous fiscal year. The annual report of the Register of Copyrights shall be published separately and as a part of the annual report of the Librarian of Congress.

(d) Except as provided by section 706(b) and the regulations issued thereunder, all actions taken by the Register of Copyrights under this title are subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, Chapter 5, Subchapter II and Chapter 7).

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2591.)

REFERENCES IN TEXT

The Administrative Procedure Act of June 11, 1946, referred to in subsec. (d), was repealed and the provisions thereof were reenacted as subchapter II of chapter 5, and chapter 7, of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

Pub. L. 93-573, title II, §§ 201 to 208, Dec. 31, 1974, 88 Stat. 1873 to 1875, as amended by Pub. L. 94-314, June 21, 1976, 90 Stat. 692; Pub. L. 95-146, Oct. 28, 1977, 91 Stat. 1226, provided that:

"ESTABLISHMENT AND PURPOSE OF COMMISSION

"Sec. 201. (a) There is hereby created in the Library of Congress a National Commission on New Technological Uses of Copyrighted Works (hereafter called the Commission).

"(b) The purpose of the Commission is to study and compile data on:

"(1) the reproduction and use of copyrighted works of authorship—

"(A) in conjunction with automatic systems capable of storing, processing, retrieving, and transferring information, and

"(B) by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities; and

"(2) the creation of new works by the application or intervention of such automatic systems or machine reproduction.

"(c) The Commission shall make recommendations as to such changes in copyright law or procedures that may be necessary to assure for such purposes access to copyrighted works, and to provide recognition of the rights of copyright owners.

"MEMBERSHIP OF THE COMMISSION

"Sec. 202. (a) The Commission shall be composed of thirteen voting members, appointed as follows:

"(1) Four members, to be appointed by the President, selected from authors and other copyright owners;

"(2) Four members, to be appointed by the President, selected from users of copyright works;

"(3) Four nongovernmental members to be appointed by the President, selected from the public generally, with at least one member selected from among experts in consumer protection affairs;

"(4) The Librarian of Congress.

"(b) The President shall appoint a Chairman, and a Vice Chairman who shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office, from among the four members selected from the public generally, as provided by clause (3) of subsection (a). The Register of Copyrights shall serve ex officio as a nonvoting member of the Commission.

"(c) Seven voting members of the Commission shall constitute a quorum.

"(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner as the original appointment was made.

"COMPENSATION OF MEMBERS OF COMMISSION

"Sec. 203. (a) Members of the Commission, other than officers or employees of the Federal Government, shall receive compensation at the rate of $100 per day while engaged in the actual performance of Commission duties, plus reimbursement for travel, subsistence, and other necessary expenses in connection with such duties.

"(b) Any members of the Commission who are officers or employees of the Federal Government shall serve on the Commission without compensation, but such members shall be reimbursed for travel, subsistence, and other necessary expenses in connection with the performance of their duties.

"STAFF

"Sec. 204. (a) To assist in its studies, the Commission may appoint a staff which shall be an administrative part of the Library of Congress. The staff shall be headed by an Executive Director, who shall be responsible to the Commission for the Administration of the duties entrusted to the staff.

"(b) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code but at rates not to exceed $100 per day.

"EXPENSES OF THE COMMISSION

"Sec. 205. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title until and including the day on which the Commission terminates.

"REPORTS

"Sec. 206. (a) Within one year after the first meeting of the Commission it shall submit to the President and the Congress a preliminary report on its activities.

"(b) On or before July 31, 1978, the Commission shall submit to the President and the Congress a final report on its study and investigation which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

"(c) In addition to the preliminary report and final report required by this section, the Commission may publish such interim reports as it may determine, including but not limited to consultant's reports, transcripts of testimony, seminar reports, and other Commission findings.

"POWERS OF THE COMMISSION

"Sec. 207. (a) The Commission or, with the authorization of the Commission, any three or more of its members, may, for the purpose of carrying out the provisions of this title, hold hearings, administer oaths, and require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of documentary material.

"(b) With the consent of the Commission, any of its members may hold any meetings, seminars, or conferences considered appropriate to provide a forum for discussion of the problems with which it is dealing.

"TERMINATION

"Sec. 208. On the sixtieth day after the date of the submission of its final report, the Commission shall

terminate and all offices and employment under it shall expire."

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official record, see rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF EVIDENCE

Hearsay exception, public records and reports, see rule 803, Title 28, Appendix, Judiciary and Judicial Procedure.

Self-authentication, domestic public documents under seal, see rule 902.

CROSS REFERENCES

Authenticated copies of records and papers of department or agency admissible, see section 1733 of Title 28, Judiciary and Judicial Procedure.

§ 702. Copyright Office regulations

The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions and duties made the responsibility of the Register under this title. All regulations established by the Register under this title are subject to the approval of the Librarian of Congress.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2591.)

§ 703. Effective date of actions in Copyright Office

In any case in which time limits are prescribed under this title for the performance of an action in the Copyright Office, and in which the last day of the prescribed period falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, the action may be taken on the next succeeding business day, and is effective as of the date when the period expired.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2591.)

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

(b) In the case of published works, all copies, phonorecords, and identifying material deposited are available to the Library of Congress for its collections, or for exchange or transfer to any other library. In the case of unpublished works, the Library is entitled, under regulations that the Register of Copyrights shall prescribe, to select any deposits for its collections or for transfer to the National Archives of the United States or to a Federal records center, as defined in section 2901 of title 44.

(c) The Register of Copyrights is authorized, for specific or general categories of works, to make a facsimile reproduction of all or any part of the material deposited under section 408, and to make such reproduction a part of the Copyright Office records of the registration, before transferring such material to the Library of Congress as provided by subsection (b), or before destroying or otherwise disposing of such material as provided by subsection (d).

(d) Deposits not selected by the Library under subsection (b), or identifying portions or reproductions of them, shall be retained under the control of the Copyright Office, including retention in Government storage facilities, for the longest period considered practicable and desirable by the Register of Copyrights and the Librarian of Congress. After that period it is within the joint discretion of the Register and the Librarian to order their destruction or other disposition; but, in the case of unpublished works, no deposit shall be knowingly or intentionally destroyed or otherwise disposed of during its term of copyright unless a facsimile reproduction of the entire deposit has been made a part of the Copyright Office records as provided by subsection (c).

(e) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section 708(a)(11) if the request is granted.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2591.)

§ 705. Copyright Office records: Preparation, maintenance, public inspection, and searching

(a) The Register of Copyrights shall provide and keep in the Copyright Office records of all deposits, registrations, recordations, and other actions taken under this title, and shall prepare indexes of all such records.

(b) Such records and indexes, as well as the articles deposited in connection with completed copyright registrations and retained under the control of the Copyright Office, shall be open to public inspection.

(c) Upon request and payment of the fee specified by section 708, the Copyright Office shall make a search of its public records, indexes, and deposits, and shall furnish a report of the information they disclose with respect to any particular deposits, registrations, or recorded documents.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2592.)

FEDERAL RULES OF EVIDENCE

Hearsay exception, public records and reports, see rule 803, Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Certificate of registration under seal as prima facie evidence of facts stated therein, see section 410 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 708 of this title.

§ 706. Copies of Copyright Office records

(a) Copies may be made of any public records or indexes of the Copyright Office; additional

certificates of copyright registration and copies of any public records or indexes may be furnished upon request and payment of the fees specified by section 708.

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701, 708 of this title.

§ 707. Copyright Office forms and publications

(a) Catalog of copyright entries

The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine, on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) Other publications

The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. The Register also has the authority to publish compilations of information, bibliographies, and other material he or she considers to be of value to the public.

(c) Distribution of publications

All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2592.)

§ 708. Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

(1) for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration, $10;

(2) for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration, $6;

(3) for the issuance of a receipt for a deposit under section 407, $2;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $10; for each page over six and each title over one, 50 cents additional;

(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $6;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, $1 additional;

(7) for the issuance, under section 601, of an import statement, $3;

(8) for the issuance, under section 706, of an additional certificate of registration, $4;

(9) for the issuance of any other certification, $4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

(10) for the making and reporting of a search as provided by section 705, and for any related services, $10 for each hour or fraction of an hour consumed;

(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

(b) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

(c) All fees received under this section shall be deposited by the Register of Copyrights in the Treasury of the United States and shall be credited to the appropriation for necessary expenses of the Copyright Office. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section; however, before making a refund in any case involving a refusal to register a claim under section 410(b), the Register may deduct all or any part of the prescribed registration fee to cover the reasonable administrative costs of processing the claim.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2593, and amended Pub. L. 95-94, title IV, § 406(b), Aug. 5, 1977, 91 Stat. 682.)

AMENDMENTS

1977—Subsec. (c). Pub. L. 95-94 substituted provisions relating to crediting of all fees received, to the appropriation for necessary expenses of the Copyright Office, for provisions relating to crediting of all fees received in the manner directed by the Secretary of the Treasury.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 406(b) of Pub. L. 95-94 provided in part that the amendment by Pub. L. 95-94 is effective Jan. 1, 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 205, 407, 408, 704 to 706 of this title.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that

a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2594.)

§ 710. Reproduction for use of the blind and physically handicapped: Voluntary licensing forms and procedures

The Register of Copyrights shall, after consultation with the Chief of the Division for the Blind and Physically Handicapped and other appropriate officials of the Library of Congress, establish by regulation standardized forms and procedures by which, at the time applications covering certain specified categories of nondramatic literary works are submitted for registration under section 408 of this title, the copyright owner may voluntarily grant to the Library of Congress a license to reproduce the copyrighted work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies or phonorecords solely for the use of the blind and physically handicapped and under limited conditions to be specified in the standardized forms.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2594.)

CHAPTER 8—COPYRIGHT ROYALTY TRIBUNAL

Sec.
801. Copyright Royalty Tribunal: Establishment and purpose.
802. Membership of the Tribunal.
803. Procedures of the Tribunal.
804. Institution and conclusion of proceedings.
805. Staff of the Tribunal.
806. Administrative support of the Tribunal.
807. Deduction of costs of proceedings.
808. Reports.
809. Effective date of final determinations.
810. Judicial review.

Effective Date

Chapter effective Oct. 19, 1976, see section 102 of Pub. L. 94-533, set out as an Effective Date note preceding section 101 of this Appendix.

Chapter Referred to in Other Sections

This chapter is referred to in sections 111, 116 of this title.

§ 801. Copyright Royalty Tribunal: Establishment and purpose

(a) There is hereby created an independent Copyright Royalty Tribunal in the legislative branch.

(b) Subject to the provisions of this chapter, the purposes of the Tribunal shall be—

(1) to make determinations concerning the adjustment of reasonable copyright royalty rates as provided in sections 115 and 116, and to make determinations as to reasonable terms and rates of royalty payments as provided in section 118. The rates applicable under sections 115 and 116 shall be calculated to achieve the following objectives:

(A) To maximize the availability of creative works to the public;

(B) To afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions;

(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication;

(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

(2) to make determinations concerning the adjustment of the copyright royalty rates in section 111 solely in accordance with the following provisions:

(A) The rates established by section 111(d)(2)(B) may be adjusted to reflect (i) national monetary inflation or deflation or (ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act: *Provided*, That if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(2)(B) shall be permitted: *And provided further*, That no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber. The Commission may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(2)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Tribunal shall consider, among

other factors, the economic impact on copyright owners and users: *Provided*, That no adjustment in royalty rates shall be made under this subclause with respect to any distant signal equivalent or fraction thereof represented by (I) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or (II) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(2)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

(D) The gross receipts limitations established by section 111(d)(2)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and

(3) to distribute royalty fees deposited with the Register of Copyrights under sections 111 and 116, and to determine, in cases where controversy exists, the distribution of such fees.

(c) As soon as possible after the date of enactment of this Act, and no later than six months following such date, the President shall publish a notice announcing the initial appointments provided in section 802, and shall designate an order of seniority among the initially-appointed commissioners for purposes of section 802(b).

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2594.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsecs. (b)(2)(A) and (c), is Oct. 19, 1976.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official record, see rule 44, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF EVIDENCE

Hearsay exception, public records and reports, see rule 803, Title 28, Appendix, Judiciary and Judicial Procedure.

Self-authentication, domestic public documents under seal, see rule 902.

CROSS REFERENCES

Authenticated copies of records and papers of department or agency admissible, see section 1733 of Title 28, Judiciary and Judicial Procedure.

Patents for designs, see section 171 et seq. of Title 35, Patents.

Trade-marks registrable on principal register, see section 1052 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 802, 804, 810 of this title.

§ 802. Membership of the Tribunal

(a) The Tribunal shall be composed of five commissioners appointed by the President with the advice and consent of the Senate for a term of seven years each; of the first five members appointed, three shall be designated to serve for seven years from the date of the notice specified in section 801(c), and two shall be designated to serve for five years from such date, respectively. Commissioners shall be compensated at the highest rate now or hereafter prescribe [1] for grade 18 of the General Schedule pay rates (5 U.S.C. 5332).

(b) Upon convening the commissioners shall elect a chairman from among the commissioners appointed for a full seven-year term. Such chairman shall serve for a term of one year. Thereafter, the most senior commissioner who has not previously served as chairman shall serve as chairman for a period of one year, except that, if all commissioners have served a full term as chairman, the most senior commissioner who has served the least number of terms as chairman shall be designated as chairman.

(c) Any vacancy in the Tribunal shall not affect its powers and shall be filled, for the unexpired term of the appointment, in the same manner as the original appointment was made.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2596.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 118, 801 of this title.

§ 803. Procedures of the Tribunal

(a) The Tribunal shall adopt regulations, not inconsistent with law, governing its procedure and methods of operation. Except as otherwise provided in this chapter, the Tribunal shall be subject to the provisions of the Administrative Procedure Act of June 11, 1946, as amended (c. 324, 60 Stat. 237, title 5, United States Code, chapter 5, subchapter II and chapter 7).

(b) Every final determination of the Tribunal shall be published in the Federal Register. It shall state in detail the criteria that the Tribunal determined to be applicable to the particular proceeding, the various facts that it found relevant to its determination in that proceeding, and the specific reasons for its determination.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2596.)

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[1] So in original. Probably should be "prescribed".

REFERENCES IN TEXT

The Administrative Procedure Act of June 11, 1946, referred to in subsec. (a), was repealed and the provisions thereof were reenacted as subchapter II of chapter 5, and chapter 7, of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 808, 809 of this title.

§ 804. Institution and conclusion of proceedings

(a) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under section 801(b)(2)(A) and (D)—

(1) on January 1, 1980, the Chairman of the Tribunal shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter; and

(2) during the calendar years specified in the following schedule, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. The Tribunal shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Tribunal determines that the petitioner has a significant interest, the Chairman shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with notice of commencement of proceedings under this chapter.

(A) In proceedings under section 801(b)(2)(A) and (D), such petition may be filed during 1985 and in each subsequent fifth calendar year.

(B) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, such petition may be filed in 1987 and in each subsequent tenth calendar year.

(C) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates under section 116, such petition may be filed in 1990 and in each subsequent tenth calendar year.

(b) With respect to proceedings under subclause (B) or (C) of section 801(b)(2), following an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established by the Tribunal, may, within twelve months, file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. In this event the Tribunal shall proceed as in subsection (a)(2), above. Any change in royalty rates made by the Tribunal pursuant to this subsection may be reconsidered in 1980, 1985, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(2)(B) or (C), as the case may be.

(c) With respect to proceedings under section 801(b)(1), concerning the determination of reasonable terms and rates of royalty payments as provided in section 118, the Tribunal shall proceed when and as provided by that section.

(d) With respect to proceedings under section 801(b)(3), concerning the distribution of royalty fees in certain circumstances under sections 111 or 116, the Chairman of the Tribunal shall, upon determination by the Tribunal that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

(e) All proceedings under this chapter shall be initiated without delay following publication of the notice specified in this section, and the Tribunal shall render its final decision in any such proceeding within one year from the date of such publication.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2597.)

§ 805. Staff of the Tribunal

(a) The Tribunal is authorized to appoint and fix the compensation of such employees as may be necessary to carry out the provisions of this chapter, and to prescribe their functions and duties.

(b) The Tribunal may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

COMPUTATION AND DISBURSEMENT BY LIBRARY OF CONGRESS OF BASIC PAY OF TRIBUNAL PERSONNEL

Pub. L. 95-391, title II, §208, Sept. 30, 1978, 92 Stat. 786, provided that: "The Library of Congress is authorized to compute and disburse basic pay of all personnel of the Copyright Royalty Tribunal pursuant to the provisions of section 5504 of title 5 of the United States Code."

Similar provisions were contained in the following appropriations act:

Pub. L. 95-94, title II, § 208, Aug. 5, 1977, 91 Stat. 678.

§ 806. Administrative support of the Tribunal

(a) The Library of Congress shall provide the Tribunal with necessary administrative services, including those related to budgeting, accounting, financial reporting, travel, personnel, and procurement. The Tribunal shall pay the Library for such services, either in advance or by reimbursement from the funds of the Tribunal, at amounts to be agreed upon between the Librarian and the Tribunal.

(b) The Library of Congress is authorized to disburse funds for the Tribunal, under regulations prescribed jointly by the Librarian of Congress and the Tribunal and approved by the Comptroller General. Such regulations shall establish requirements and procedures under which every voucher certified for payment by the Library of Congress under this chapter shall be supported with a certification by a duly authorized officer or employee of the Tribunal, and shall prescribe the responsibilities and accountability of said officers and employees of the Tribunal with respect to such certifications.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

§ 807. Deduction of costs of proceedings

Before any funds are distributed pursuant to a final decision in a proceeding involving distribution of royalty fees, the Tribunal shall assess the reasonable costs of such proceeding.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

§ 808. Reports

In addition to its publication of the reports of all final determinations as provided in section 803(b), the Tribunal shall make an annual report to the President and the Congress concerning the Tribunal's work during the preceding fiscal year, including a detailed fiscal statement of account.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

§ 809. Effective date of final determinations

Any final determination by the Tribunal under this chapter shall become effective thirty days following its publication in the Federal Register as provided in section 803(b), unless prior to that time an appeal has been filed pursuant to section 810, to vacate, modify, or correct such determination, and notice of such appeal has been served on all parties who appeared before the Tribunal in the proceeding in question. Where the proceeding involves the distribution of royalty fees under sections [1] 111 or 116, the Tribunal shall, upon the expiration of such thirty-day period, distribute any royalty fees not subject to an appeal filed pursuant to section 810.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

§ 810. Judicial review

Any final decision of the Tribunal in a proceeding under section 801(b) may be appealed to the United States Court of Appeals, within thirty days after its publication in the Federal Register by an aggrieved party. The judicial review of the decision shall be had, in accordance with chapter 7 of title 5, on the basis of the record before the Tribunal. No court shall have jurisdiction to review a final decision of the Tribunal except as provided in this section.

(Added Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2598.)

CROSS REFERENCES

Agreement to accept determination of Copyright Royalty Tribunal as final in regard to claim for compulsory license fees, see section 116 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 116, 809 of this title.

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[1] So in original. Probably should be "section".